

53A-1-101. State Board of Education -- Members.

(1) Members of the State Board of Education shall be nominated and elected as provided in Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(2) (a) In addition to the members designated under Subsection (1), the following members shall serve as nonvoting members of the State Board of Education:

(i) two members of the State Board of Regents, appointed by the chair of the State Board of Regents;

(ii) one member of the Utah College of Applied Technology Board of Trustees, appointed by the chair of the board of trustees; and

(iii) one member of the State Charter School Board, appointed by the chair of the State Charter School Board.

(b) A nonvoting member shall continue to serve as a member without a set term until the member is replaced by the chair of the State Board of Regents, chair of the Utah College of Applied Technology Board of Trustees, or chair of the State Charter School Board, as applicable.

Amended by Chapter 162, 2010 General Session

53A-1-201. Election and appointment of officers -- Removal from office.

(1) The State Board of Education shall elect from its members a chair, and at least one vice chair, but no more than three vice chairs, each year at a meeting held any time between November 15 and January 15.

(2) (a) If the election of officers is held subsequent to the election of a new member of the board, but prior to the time that the new member takes office, the new member shall assume the position of the outgoing member for purposes of the election of officers.

(b) In all other matters the outgoing member shall retain the full authority of the office until replaced as provided by law.

(3) The duties of these officers shall be determined by the board.

(4) The board shall appoint a secretary who serves at the pleasure of the board.

(5) An officer appointed or elected by the board under this section may be removed from office for cause by a vote of two-thirds of the board.

Amended by Chapter 111, 2013 General Session

53A-1-202. Compensation for services -- Insurance -- Per diem and expenses.

(1) Each member of the State Board of Education shall receive \$3,000 per year, payable monthly, as compensation for services.

(2) A board member may participate in any group insurance plan provided to employees of the State Office of Education as part of their compensation on the same basis as required for employee participation.

(3) In addition to the provisions of Subsections (1) and (2), a board member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

53A-1-203. State board meetings -- Quorum requirements.

- (1) The State Board of Education shall meet at the call of the chairman and at least 11 times each year.
- (2) A majority of all members is required to validate an act of the board.

Enacted by Chapter 2, 1988 General Session

53A-1-204. Gross neglect of duty -- Nonpayment of salary or expenses.

- (1) Failure of a member of the State Board of Education or of a governing board of a branch or division of the public school system to carry out responsibilities assigned by law or to comply with rules of the State Board of Education is gross neglect of duty.
- (2) Salary or expenses shall not be paid for work which violates rules of the board.

Enacted by Chapter 2, 1988 General Session

53A-1-301. Appointment -- Qualifications -- Duties.

- (1) (a) The State Board of Education shall appoint a superintendent of public instruction, hereinafter called the state superintendent, who is the executive officer of the board and serves at the pleasure of the board.
- (b) The board shall appoint the state superintendent on the basis of outstanding professional qualifications.
- (c) The state superintendent shall administer all programs assigned to the State Board of Education in accordance with the policies and the standards established by the board.
- (2) The State Board shall with the appointed superintendent develop a statewide education strategy focusing on core academics, including the development of:
 - (a) core curriculum and graduation requirements;
 - (b) a process to select instructional materials that best correlate to the core curriculum and graduation requirements that are supported by generally accepted scientific standards of evidence;
 - (c) professional development programs for teachers, superintendents, and principals;
 - (d) remediation programs;
 - (e) a method for creating individual student learning targets, and a method of measuring an individual student's performance toward those targets;
 - (f) progress-based assessments for ongoing performance evaluations of districts and schools;
 - (g) incentives to achieve the desired outcome of individual student progress in core academics, and which do not create disincentives for setting high goals for the

students;

(h) an annual report card for school and district performance, measuring learning and reporting progress-based assessments;

(i) a systematic method to encourage innovation in schools and school districts as they strive to achieve improvement in their performance; and

(j) a method for identifying and sharing best demonstrated practices across districts and schools.

(3) The superintendent shall perform duties assigned by the board, including the following:

(a) investigating all matters pertaining to the public schools;

(b) adopting and keeping an official seal to authenticate the superintendent's official acts;

(c) holding and conducting meetings, seminars, and conferences on educational topics;

(d) presenting to the governor and the Legislature each December a report of the public school system for the preceding year to include:

(i) data on the general condition of the schools with recommendations considered desirable for specific programs;

(ii) a complete statement of fund balances;

(iii) a complete statement of revenues by fund and source;

(iv) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(v) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the U.S. Department of Education publication "Financial Accounting for Local and State School Systems";

(vi) a complete statement, by school district and charter school, of the amount of and percentage increase or decrease in expenditures from the previous year attributed to:

(A) wage increases, with expenditure data for base salary adjustments identified separately from step and lane expenditures;

(B) medical and dental premium cost adjustments; and

(C) adjustments in the number of teachers and other staff;

(vii) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings pursuant to Section 53A-8a-405;

(E) pupil-teacher ratios;

(F) average class sizes calculated in accordance with State Board of Education rules adopted under Subsection 53A-3-602.5(4);

(G) average salaries;

(H) applicable private school data; and

(I) data from standardized norm-referenced tests in grades 5, 8, and 11 on each

school and district;

(viii) statistical information regarding incidents of delinquent activity in the schools or at school-related activities with separate categories for:

(A) alcohol and drug abuse;

(B) weapon possession;

(C) assaults; and

(D) arson;

(ix) information about:

(A) the development and implementation of the strategy of focusing on core academics;

(B) the development and implementation of competency-based education and progress-based assessments; and

(C) the results being achieved under Subsections (3)(d)(ix)(A) and (B), as measured by individual progress-based assessments and a comparison of Utah students' progress with the progress of students in other states using standardized norm-referenced tests as benchmarks; and

(x) other statistical and financial information about the school system which the state superintendent considers pertinent;

(e) collecting and organizing education data into an automated decision support system to facilitate school district and school improvement planning, accountability reporting, performance recognition, and the evaluation of educational policy and program effectiveness to include:

(i) data that are:

(A) comparable across schools and school districts;

(B) appropriate for use in longitudinal studies; and

(C) comprehensive with regard to the data elements required under applicable state or federal law or state board rule;

(ii) features that enable users, most particularly school administrators, teachers, and parents, to:

(A) retrieve school and school district level data electronically;

(B) interpret the data visually; and

(C) draw conclusions that are statistically valid; and

(iii) procedures for the collection and management of education data that:

(A) require the state superintendent of public instruction to:

(I) collaborate with school districts in designing and implementing uniform data standards and definitions;

(II) undertake or sponsor research to implement improved methods for analyzing education data;

(III) provide for data security to prevent unauthorized access to or contamination of the data; and

(IV) protect the confidentiality of data under state and federal privacy laws; and

(B) require all school districts and schools to comply with the data collection and management procedures established under Subsection (3)(e);

(f) administering and implementing federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act; and

(g) with the approval of the board, preparing and submitting to the governor a

budget for the board to be included in the budget that the governor submits to the Legislature.

(4) The state superintendent shall distribute funds deposited in the Autism Awareness Restricted Account created in Section 53A-1-304 in accordance with the requirements of Section 53A-1-304.

(5) Upon leaving office, the state superintendent shall deliver to the state superintendent's successor all books, records, documents, maps, reports, papers, and other articles pertaining to the state superintendent's office.

(6) (a) For the purpose of Subsection (3)(d)(vii):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The printed copy of the report required by Subsection (3)(d) shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) indicate the Internet website where pupil-teacher ratios for each school in the state may be accessed.

Amended by Chapter 425, 2012 General Session

53A-1-302. Compensation of state superintendent -- Other board employees.

(1) The board shall establish the compensation of the state superintendent.

(2) The board may appoint other employees as necessary for the proper administration and supervision of the public school system. The compensation and duties of these other employees shall be established by the board and paid from money appropriated for that purpose.

Amended by Chapter 261, 1990 General Session

53A-1-303. Advice by superintendent -- Written opinions.

(1) The state superintendent shall advise superintendents, school boards, and other school officers upon all matters involving the welfare of the schools.

(2) The superintendent shall, when requested by district superintendents or other school officers, provide written opinions on questions of public education, administrative policy, and procedure, but not upon questions of law.

(3) Upon request by the state superintendent, the attorney general shall issue

written opinions on questions of law.

(4) Opinions issued under this section shall be considered to be correct and final unless set aside by a court of competent jurisdiction or by subsequent legislation.

Enacted by Chapter 2, 1988 General Session

53A-1-304. Autism Awareness Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Autism Awareness Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the superintendent shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) promote access to resources and responsible information for individuals of all ages who have, or are affected by, autism or related conditions;

(c) is an independent organization that has representation from state agencies and private providers serving individuals with autism spectrum disorder and their families in the state;

(d) includes representation of:

(i) national and local autism advocacy groups, as available; and

(ii) interested parents and professionals; and

(e) does not endorse any specific treatment, therapy, or intervention used for autism.

(4) (a) An organization described in Subsection (3) may apply to the superintendent to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the superintendent in accordance with Subsection (3) shall expend the distribution only to:

(i) pay for autism education and public awareness of programs and related services in the state;

(ii) enhance programs designed to serve individuals with autism;

(iii) provide support to caregivers providing services for individuals with autism;

(iv) pay for academic scholarships and research efforts in the area of autism spectrum disorder; and

(v) pay the costs of issuing or reordering Autism Awareness Support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules providing procedures for an organization to apply to the superintendent to receive a distribution under Subsection (3).

Amended by Chapter 303, 2011 General Session

53A-1-401. Powers of State Board of Education -- Adoption of rules -- Enforcement.

(1) (a) The State Board of Education has general control and supervision of the state's public education system.

(b) "General control and supervision" as used in Article X, Sec. 3, of the Utah Constitution means directed to the whole system.

(2) The board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.

(3) The board may adopt rules and policies in accordance with its responsibilities under the constitution and state laws, and may interrupt disbursements of state aid to any district which fails to comply with rules adopted in accordance with this Subsection (3).

(4) (a) The board may sell any interest it holds in real property upon a finding by the board that the property interest is surplus.

(b) The board may use the money it receives from a sale under Subsection (4)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection (4)(a) was held for the benefit of an agency or institution administered by the board, the money may only be used for purposes related to the agency or institution.

(d) The board shall advise the Legislature of any sale under Subsection (4)(a) and related matters during the next following session of the Legislature.

(5) The board shall develop policies and procedures related to federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act.

(6) On or before December 31, 2010, the State Board of Education shall review mandates or requirements provided for in board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.

Amended by Chapter 305, 2010 General Session

53A-1-402. Board to establish minimum standards for public schools.

(1) The State Board of Education shall establish rules and minimum standards for the public schools that are consistent with this title, including rules and minimum standards governing the following:

(a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

- (ii) the academic year;
- (iii) alternative and pilot programs;
- (iv) curriculum and instruction requirements;
- (v) school libraries; and
- (vi) services to:
 - (A) persons with a disability as defined by and covered under:
 - (I) the Americans with Disabilities Act of 1990, 42 U.S.C. 12102;
 - (II) the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and
 - (III) the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3); and
 - (B) other special groups;
- (d) (i) state reimbursed bus routes;
- (ii) bus safety and operational requirements; and
- (iii) other transportation needs; and
- (e) (i) school productivity and cost effectiveness measures;
- (ii) federal programs;
- (iii) school budget formats; and
- (iv) financial, statistical, and student accounting requirements.
- (2) The board shall determine if:
 - (a) the minimum standards have been met; and
 - (b) required reports are properly submitted.
- (3) The board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.
- (4) (a) The Utah College of Applied Technology shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the State Board of Education.
- (b) A school district may grant a high school diploma to a student participating in courses described under Subsection (4)(a) that are provided by the Utah College of Applied Technology.

Amended by Chapter 227, 2005 General Session

53A-1-402.5. State board rules establishing basic ethical conduct standards -- Local school board policies.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish basic ethical conduct standards for public education employees who provide education-related services outside of their regular employment to their current or prospective public school students.
- (2) The rules shall provide that a local school board may adopt policies implementing the standards and addressing circumstances present in the district.

Amended by Chapter 382, 2008 General Session

53A-1-402.6. Core curriculum standards.

- (1) In establishing minimum standards related to curriculum and instruction requirements under Section 53A-1-402, the State Board of Education shall, in

consultation with local school boards, school superintendents, teachers, employers, and parents implement core curriculum standards which will enable students to, among other objectives:

- (a) communicate effectively, both verbally and through written communication;
- (b) apply mathematics; and
- (c) access, analyze, and apply information.

(2) The board shall:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align the core curriculum standards and tests administered under the Utah Performance Assessment System for Students (U-PASS) with each other.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the core academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core curriculum standards, the State Board of Education shall:

(a) publicize draft core curriculum standards on the State Board of Education's website and the Utah Public Notice website created under Section 63F-1-701;

(b) invite public comment on the draft core curriculum standards for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core curriculum standards.

(5) Local school boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core curriculum standards with the expectation that each program will enhance or help achieve mastery of the core curriculum standards.

(6) Except as provided in Section 53A-13-101, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that it considers most appropriate to meet core curriculum standards.

(7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of Utah's core curriculum standards to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing core curriculum standards;

(b) the proposed core curriculum standards are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Part 9, Implementing Federal Programs Act, or Title 63J, Chapter 5, Federal Funds Procedures Act;

(ii) conflicts with Utah law;

(iii) requires Utah student data to be included in a national or multi-state

database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The State Board of Education shall annually report to the Education Interim Committee on the development and implementation of core curriculum standards, including the time line established for the review of core curriculum standards by a standards review committee and the recommendations of a standards review committee established under Section 53A-1-402.8.

Amended by Chapter 352, 2014 General Session

53A-1-402.8. Standards review committee.

(1) As used in this section, "board" means the State Board of Education.

(2) Subject to Subsection (5), the State Board of Education shall establish:

(a) a time line for the review by a standards review committee of core curriculum standards for:

(i) English language arts;

(ii) mathematics;

(iii) science;

(iv) social studies;

(v) fine arts;

(vi) physical education and health; and

(vii) early childhood education; and

(b) a separate standards review committee for each subject area specified in Subsection (2)(a) to review, and recommend to the board revisions to, core curriculum standards.

(3) At least one year before the board takes formal action to adopt new core curriculum standards, the board shall establish a standards review committee as required by Subsection (2)(b).

(4) A standards review committee shall meet at least twice during the time period described in Subsection (3).

(5) In establishing a time line for the review of core curriculum standards by a standards review committee, the board shall give priority to establishing a standards review committee to review, and recommend revisions to, the core curriculum standards for mathematics.

(6) The membership of a standards review committee consists of:

(a) seven individuals, with expertise in the subject being reviewed, appointed by the board chair, including teachers, business representatives, faculty of higher education institutions in Utah, and others as determined by the board chair;

(b) five parents or guardians of public education students appointed by the speaker of the House of Representatives; and

(c) five parents or guardians of public education students appointed by the president of the Senate.

(7) The board shall provide staff support to the standards review committee.

(8) A member of the standards review committee may not receive compensation or benefits for the member's service on the committee.

(9) Among the criteria a standards review committee shall consider when reviewing core curriculum standards is giving students an adequate foundation to successfully pursue college, technical education, a career, or other life pursuits.

(10) A standards review committee shall submit, to the board, comments and recommendations for revision of core curriculum standards.

(11) The board shall take into consideration the comments and recommendations of a standards review committee in adopting core curriculum standards.

(12) (a) Nothing in this section prohibits the board from amending or adding individual core curriculum standards as the need arises in the board's ongoing responsibilities.

(b) If the board makes changes as described in Subsection (12)(a), the board shall include the changes in the annual report the board submits to the Education Interim Committee under Section 53A-1-402.6.

Enacted by Chapter 352, 2014 General Session

53A-1-403. Education of persons under 21 in custody of state agency -- Establishment of coordinating council -- Advisory councils.

(1) For purposes of this section, "board" means the State Board of Education.

(2) (a) The board is directly responsible for the education of all persons under the age of 21 who are:

(i) in the custody of the Department of Human Services;

(ii) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(iii) being held in a juvenile detention facility.

(b) The board shall adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the distribution of funds for the education of persons described in Subsection (2)(a).

(3) Subsection (2)(a)(ii) does not apply to persons taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.

(4) The board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the board shall retain responsibility for the programs.

(5) The Legislature shall establish and maintain separate education budget categories for youth in custody who are under the jurisdiction of the following state agencies:

(a) detention centers and the Divisions of Juvenile Justice Services and Child and Family Services;

(b) the Division of Substance Abuse and Mental Health; and

(c) the Division of Services for People with Disabilities.

(6) (a) The Department of Human Services and the State Board of Education

shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The department and board may appoint similar councils for those in the custody of the Division of Substance Abuse and Mental Health or the Division of Services for People with Disabilities.

(7) A school district contracting to provide services under Subsection (4) shall establish an advisory council to plan, coordinate, and review education and treatment programs for persons held in custody in the district.

Amended by Chapter 359, 2011 General Session

53A-1-403.5. Education of persons in custody of the Utah Department of Corrections -- Contracting for services -- Recidivism reduction plan -- Collaboration among state agencies.

(1) The State Board of Education and the Utah Department of Corrections, subject to legislative appropriation, are responsible for the education of persons in the custody of the Utah Department of Corrections.

(2) (a) To fulfill the responsibility under Subsection (1), the State Board of Education and the Utah Department of Corrections shall, where feasible, contract with appropriate private or public agencies to provide educational and related administrative services. Contracts for postsecondary education and training shall be under Subsection (2)(b).

(b) (i) The contract under Subsection (2)(a) to provide postsecondary education and training shall be with a community college if the correctional facility is located within the service region of a community college, except under Subsection (2)(b)(ii).

(ii) If the community college under Subsection (2)(b)(i) declines to provide the education and training or cannot meet reasonable contractual terms for providing the education and training as specified by the Utah Department of Corrections, postsecondary education and training under Subsection (2)(a) may be procured through other appropriate private or public agencies.

(3) (a) As its corrections education program, the State Board of Education and the Utah Department of Corrections shall develop and implement a recidivism reduction plan, including the following components:

- (i) inmate assessment;
- (ii) cognitive problem-solving skills;
- (iii) basic literacy skills;
- (iv) career skills;
- (v) job placement;
- (vi) postrelease tracking and support;
- (vii) research and evaluation;
- (viii) family involvement and support; and
- (ix) multiagency collaboration.

(b) The plan shall be developed and implemented through the State Office of Education and the Utah Department of Corrections in collaboration with the following entities:

- (i) the State Board of Regents;
- (ii) the Utah College of Applied Technology Board of Trustees;
- (iii) local boards of education;
- (iv) the Department of Workforce Services;
- (v) the Department of Human Services;
- (vi) the Board of Pardons and Parole;
- (vii) the State Office of Rehabilitation; and
- (viii) the Governor's Office.

(4) By July 1, 2014, and every three years thereafter, the Utah Department of Corrections shall make a report to the Education Interim Committee and the Judiciary, Law Enforcement, and Criminal Justice Interim Committee evaluating the impact of corrections education programs on recidivism.

Amended by Chapter 23, 2012 General Session

53A-1-404. Auditors appointed -- Auditing standards.

(1) Procedures utilized by auditors employed by local school boards shall meet or exceed generally accepted auditing standards approved by the State Board of Education and the state auditor.

(2) The standards must include financial accounting for both revenue and expenditures, and student accounting.

Enacted by Chapter 2, 1988 General Session

53A-1-405. State board to verify audits.

The State Board of Education is responsible for verifying audits of financial and student accounting records of school districts for purposes of determining the allocation of Uniform School Fund money.

Enacted by Chapter 2, 1988 General Session

53A-1-406. Acceptance of gifts, endowments, devises and bequests.

(1) The State Board of Education, on its own behalf or on behalf of an educational institution for which the board is the direct governing body, may accept private grants, loans, gifts, endowments, devises, or bequests which are made for educational purposes.

(2) These contributions are not subject to appropriation by the Legislature.

Enacted by Chapter 2, 1988 General Session

53A-1-409. Competency-based education -- Recommendations -- Coordination.

(1) As used in this section:

(a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(b) "Competency-based education" means an education approach that requires a student to acquire a competency and includes a classroom structure and operation that aid and facilitate the acquisition of specified competencies on an individual basis wherein a student is allowed to master and demonstrate competencies as fast as the student is able.

(c) "Gain score" means the measured difference of a student's score at the beginning and end of a time period that may be aggregated at the class, grade, school, and school district levels.

(2) The State Board of Education shall:

(a) provide expertise to and consult with local school boards, school districts, and charter schools relating to competency-based education and progress-based assessments;

(b) before the beginning of the 2014 General Session of the Legislature, make recommendations to the Public Education Appropriations Subcommittee, including the amount and allocation of public education money, based upon both new public education money and the reallocation of money required to develop and implement:

(i) competency-based education and progress-based assessments;

(ii) (A) a weighted competency unit that distributes public education money based on student achievement resulting from competency-based program objectives, strategies, and standards; and

(B) a course-level funding formula that distributes funds to school districts and charter schools that establish competency-based education;

(iii) a plan to assist students, teachers, schools, and districts that need remediation based upon Subsections (2)(b)(i) and (ii);

(iv) the reallocation of teaching resources from noncore electives into grades 1-3, 7-12 math, and 7-12 English; and

(v) a teacher development program focused on achieving progress in core academics, including instruction in explicit, systematic, and intensive phonics for teachers in grades kindergarten through 3;

(c) assist school districts and charter schools to develop and implement:

(i) competency-based education; and

(ii) the use of gain scores; and

(d) develop and use monetary and nonmonetary incentives, tools, and rewards to encourage school districts and charter schools to accomplish the items described under this section.

(3) A funding formula described in Subsection (2)(b)(ii)(B) shall:

(a) base the funding for a competency-based course on a proportionate amount of the weighted pupil unit;

(b) partially distribute funds based on initial enrollment;

(c) distribute remaining funds based on a student's successful completion of a course through demonstrated competency and subject mastery; and

(d) not be dependent on the amount of time a student is instructed in the course or the age of the student.

(4) A local school board or a charter school governing board may establish a competency-based education program.

(5) A local school board or charter school governing board that establishes a

competency-based education program shall:

- (a) establish assessments to accurately measure competency;
 - (b) provide the assessments to an enrolled student at no cost to the student;
 - (c) award credit to a student who demonstrates competency and subject mastery;
 - (d) submit the competency-based curriculum standards to the State Board of Education for review; and
 - (e) publish the competency-based curriculum standards on its website or by other electronic means readily accessible to the public.
- (6) A local school board or charter school governing board may:
- (a) on a random lottery-based basis, limit enrollment to courses that have been designated as competency-based courses;
 - (b) waive or adapt traditional attendance requirements;
 - (c) adjust class sizes to maximize the value of course instructors or course mentors;
 - (d) enroll students from any geographic location within the state; and
 - (e) provide proctored online competency-based assessments.

Amended by Chapter 398, 2013 General Session

53A-1-410. Utah Futures.

- (1) As used in this section:
 - (a) "Education provider" means:
 - (i) a Utah institution of higher education as defined in Section 53B-2-101; or
 - (ii) a Utah provider of postsecondary education.
 - (b) "Student user" means:
 - (i) a Utah student in kindergarten through grade 12;
 - (ii) a Utah post secondary education student;
 - (iii) a parent or guardian of a Utah public education student; or
 - (iv) a Utah potential post secondary education student.
 - (c) "Utah Futures" means a career planning program developed and administered by the Department of Workforce Services, the State Board of Regents, and the State Board of Education.
 - (d) "Utah Futures Steering Committee" means a committee of members designated by the governor to administer and manage Utah Futures in collaboration with the Department of Workforce Services, the State Board of Regents, and the State Board of Education.
- (2) The Utah Futures Steering Committee shall ensure, as funding allows and is feasible, that Utah Futures will:
 - (a) allow a student user to:
 - (i) access the student user's full academic record;
 - (ii) electronically allow the student user to give access to the student user's academic record and related information to an education provider as allowed by law;
 - (iii) access information about different career opportunities and understand the related educational requirements to enter that career;
 - (iv) access information about education providers;

- (v) access up to date information about entrance requirements to education providers;
- (vi) apply for entrance to multiple schools without having to fully replicate the application process;
- (vii) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and
- (viii) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;
- (b) allow all users to:
 - (i) access information about different career opportunities and understand the related educational requirements to enter that career;
 - (ii) access information about education providers;
 - (iii) access up-to-date information about entrance requirements to education providers;
 - (iv) apply for entrance to multiple schools without having to fully replicate the application process;
 - (v) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and
 - (vi) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;
- (c) allow an education provider to:
 - (i) research and find student users who are interested in various educational outcomes;
 - (ii) promote the education provider's programs and schools to student users;
- and
 - (iii) connect with student users within the Utah Futures website;
 - (d) allow a Utah business to:
 - (i) research and find student users who are pursuing educational outcomes that are consistent with jobs the Utah business is trying to fill now or in the future; and
 - (ii) market jobs and communicate with student users through the Utah Futures website as allowed by law;
 - (e) allow the Department of Workforce Services to analyze and report on student user interests, education paths, and behaviors within the education system so as to predictively determine appropriate career and educational outcomes and results; and
 - (f) allow all users of the Utah Futures' system to communicate and interact through social networking tools within the Utah Futures website as allowed by law.

(3) On or before October 1, 2014, the State Board of Education, after consulting with the Board of Business and Economic Development created in Section 63M-1-301, may select a technology provider, through a request for proposals process, to provide technology and support for Utah Futures.

(4) In evaluating proposals under Subsection (3) in consultation with the Board of Business and Economic Development, the State Board of Education shall ensure that the technology provided by a proposer:

(a) allows Utah Futures to license the selected service oriented architecture technologies;

(b) allows Utah Futures to protect all user data within the system by leveraging role architecture;

(c) allows Utah Futures to update the user interface, APIs, and web services software layers as needed;

(d) provides the ability for a student user to have a secure profile and login to access and to store personal information related to the services listed in Subsection (2) via the Internet;

(e) protects all user data within Utah Futures;

(f) allows the State Board of Education to license the technology of the selected technology provider; and

(g) provides technology able to support application programming interfaces to integrate technology of other third party providers, which may include cloud-based technology.

(5) (a) On or before August 1, 2014, the evaluation panel described in Subsection (5)(b), using the criteria described in Subsection (5)(c), shall evaluate Utah Futures and determine whether any or all components of Utah Futures, as described in this section, should be outsourced to a private provider or built in-house by the participating state agencies.

(b) The evaluation panel described in Subsection (5)(a) shall consist of the following members, appointed by the governor after consulting with the State Board of Education:

(i) five members who represent business, including:

(A) one member who has extensive knowledge and experience in information technology; and

(B) one member who has extensive knowledge and experience in human resources;

(ii) one member who is a user of the information provided by Utah Futures;

(iii) one member who is a parent of a student who uses Utah Futures;

(iv) one member who:

(A) is an educator as defined in Section 53A-6-103; and

(B) teaches students who use Utah Futures; and

(v) one member who is a high school counselor licensed under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

(c) The evaluation panel described in Subsections (5)(a) and (b) shall consider at least the following criteria to make the determination described in Subsection (5)(a):

(i) the complete functional capabilities of a private technology provider versus an in-house version;

(ii) the cost of purchasing privately developed technology versus continuing to develop or build an in-house version;

(iii) the data and security capabilities of a private technology provider versus an in-house version;

(iv) the time frames to implementation; and

(v) the best practices and examples of other states who have implemented a tool similar to Utah Futures.

(d) On or before September 30, 2014, the evaluation panel shall report the determination to:

- (i) the State Board of Education;
- (ii) the Executive Appropriations Committee; and
- (iii) the Education Interim Committee.

Amended by Chapter 372, 2014 General Session

53A-1-411. Pilot online school survey system.

(1) As used in this section, "board" means the State Board of Education.

(2) (a) Beginning with the 2012-13 school year, the State Board of Education shall establish a three-year pilot online school survey system in consultation with representatives of local school boards, charter school governing boards, school district and school administrators, teachers, and parents.

(b) The board shall develop the technology, or contract with a provider selected through a request for proposals process to provide the technology, for the pilot online school survey system to be used by the board, a school district, or a school.

(3) The purposes of the pilot online school survey system are to:

- (a) provide information to school districts and schools on how to better serve and meet the needs of students and parents;
- (b) allow school districts and schools to monitor progress of school improvement efforts; and
- (c) provide data that may be used as part of a school district's or school's educator evaluation system and inform decisions about employment and professional development.

(4) The pilot online school survey system shall include:

- (a) age appropriate surveys for students to evaluate each of their teachers;
- (b) age appropriate surveys for students to evaluate their school's administrators;
- (c) a survey for parents to evaluate their children's teachers;
- (d) a survey for parents to evaluate their children's schools and administrators, including whether the school or administrators solicited parent involvement in the school;
- (e) a survey for parents to self-evaluate their participation in their children's education, including attendance at parent teacher conferences, involvement in the school, and involvement in their children's homework;
- (f) a survey for teachers to evaluate their school, including safety and security of the school;
- (g) a survey for teachers to evaluate their school's administrators and, if applicable, their school district's administrators;
- (h) statistically valid and reliable measurement tools; and
- (i) survey questions that represent information that a student, parent, or teacher has direct knowledge of.

(5) (a) Except as provided in Subsection (5)(b), the pilot online school survey instruments shall be uniform statewide to allow for comparison of:

- (i) survey results statewide; and

(ii) survey results from year to year.

(b) The State Board of Education may allow a school participating in the pilot program to create a supplement to the pilot online school survey instrument that includes items specific to the school.

(6) (a) The board shall select a sampling of schools to participate in and administer the pilot online school survey to students, parents, and teachers.

(b) The sampling of urban and rural schools selected by the board shall:

(i) represent at least 5% of total state enrollment in public schools; and

(ii) include at least:

(A) eight elementary schools;

(B) eight junior high or middle schools;

(C) eight high schools; and

(D) five charter schools.

(c) The schools selected in Subsection (6)(b)(ii) shall be selected from at least five school districts.

(d) Except as provided in Subsection (6)(e), a participating school shall survey all of the students enrolled in the participating school.

(e) A participating school shall survey:

(i) students in grades 1 and 2 if considered appropriate;

(ii) students in grades 3 through 12; and

(iii) parents and teachers of students in kindergarten through grade 12.

(7) (a) A participating school shall, annually for an elementary school or semi-annually for a secondary school:

(i) administer online student surveys of teachers for each of a student's teachers;

(ii) make available to parents online access to surveys, which they may complete for each their children's teachers and schools; and

(iii) make available to teachers online access to a survey of their school, which they may complete.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules establishing procedures for administering or making available online the surveys specified in Subsection (7)(a), including rules to ensure the privacy and protection of individual educator survey results.

(8) The survey data shall be available to:

(a) the State Board of Education for the purpose of analyzing and aggregating the survey data; and

(b) school district and school administrators for the purposes stated in Subsection (2).

(9) On or before the November meeting of the Education Interim Committee in 2012, the State Board of Education shall report:

(a) the names of the participating schools;

(b) the identity of the provider selected through the request for proposals process; and

(c) the progress of the pilot online school survey system.

(10) On or before the November meeting of the Education Interim Committee in

2013 and 2014, the State Board of Education shall report:

- (a) the response rate of students, parents, and teachers in each of the participating schools; and
- (b) the reliability of the pilot online school survey system as an evaluation tool.

Enacted by Chapter 280, 2012 General Session

53A-1-413. Student Achievement Backpack -- Utah Student Record Store.

(1) As used in this section:

- (a) "Authorized LEA user" means a teacher or other person who is:
 - (i) employed by an LEA that provides instruction to a student; and
 - (ii) authorized to access data in a Student Achievement Backpack through the Utah Student Record Store.
- (b) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.
- (c) "Student Achievement Backpack" means, for a student from kindergarten through grade 12, a complete learner profile that:
 - (i) is in electronic format;
 - (ii) follows the student from grade to grade and school to school; and
 - (iii) is accessible by the student's parent or guardian or an authorized LEA user.
- (d) "U-PASS" means the Utah Performance Assessment System for Students established in Part 6, Achievement Tests.
- (e) "Utah Student Record Store" means a repository of student data collected from LEAs as part of the state's longitudinal data system that is:
 - (i) managed by the Utah State Office of Education;
 - (ii) cloud-based; and
 - (iii) accessible via a web browser to authorized LEA users.

(2) (a) The State Board of Education shall use the robust, comprehensive data collection system maintained by the Utah State Office of Education, which collects longitudinal student transcript data from LEAs and the unique student identifiers as described in Section 53A-1-603.5, to allow the following to access a student's Student Achievement Backpack:

- (i) the student's parent or guardian; and
 - (ii) each LEA that provides instruction to the student.
- (b) The State Board of Education shall ensure that a Student Achievement Backpack:
- (i) provides a uniform, transparent reporting mechanism for individual student progress;
 - (ii) provides a complete learner history for postsecondary planning;
 - (iii) provides a teacher with visibility into a student's complete learner profile to better inform instruction and personalize education;
 - (iv) assists a teacher or administrator in diagnosing a student's learning needs through the use of data already collected by the State Board of Education;
 - (v) facilitates a student's parent or guardian taking an active role in the student's education by simplifying access to the student's complete learner profile; and
 - (vi) serves as additional disaster mitigation for LEAs by using a cloud-based

data storage and collection system.

(3) Using existing information collected and stored in the data warehouse maintained by the Utah State Office of Education, the State Board of Education shall create the Utah Student Record Store where an authorized LEA user may:

(a) access data in a Student Achievement Backpack relevant to the user's LEA or school; or

(b) request student records to be transferred from one LEA to another.

(4) The State Board of Education shall implement security measures to ensure that:

(a) student data stored or transmitted to or from the Utah Student Record Store is secure and confidential pursuant to the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(b) an authorized LEA user may only access student data that is relevant to the user's LEA or school.

(5) A student's parent or guardian may request the student's Student Achievement Backpack from the LEA or the school in which the student is enrolled.

(6) No later than June 30, 2014, an authorized LEA user shall be able to access student data in a Student Achievement Backpack, which shall include the following data, or request the data be transferred from one LEA to another:

(a) student demographics;

(b) course grades;

(c) course history; and

(d) results for an assessment administered under U-PASS.

(7) No later than June 30, 2015, an authorized LEA user shall be able to access student data in a Student Achievement Backpack, which shall include the data listed in Subsections (6)(a) through (d) and the following data, or request the data be transferred from one LEA to another:

(a) section attendance;

(b) the name of a student's teacher for classes or courses the student takes;

(c) teacher qualifications for a student's teacher, including years of experience, degree, license, and endorsement;

(d) results of formative, interim, and summative computer adaptive assessments administered pursuant to Section 53A-1-603;

(e) detailed data demonstrating a student's mastery of core standards and objectives as measured by computer adaptive assessments administered pursuant to Section 53A-1-603;

(f) a student's writing sample written for an online writing assessment administered pursuant to Section 53A-1-603;

(g) student growth scores for U-PASS tests;

(h) a school's grade assigned pursuant to Part 11, School Grading Act;

(i) results of benchmark assessments of reading administered pursuant to Section 53A-1-606.6; and

(j) a student's reading level at the end of grade 3.

(8) No later than June 30, 2017, the State Board of Education shall ensure that data collected in the Utah Student Record Store for a Student Achievement Backpack shall be integrated into each LEA's student information system and shall be made

available to a student's parent or guardian and an authorized LEA user in an easily accessible viewing format.

Enacted by Chapter 305, 2013 General Session

53A-1-601. Legislative intent.

(1) It is the intent of the Legislature in enacting this part to determine the effectiveness of school districts and schools in assisting students to master the fundamental educational skills towards which instruction is directed.

(2) (a) The Utah Performance Assessment System for Students enacted under this part shall provide the public, the Legislature, the State Board of Education, school districts, public schools, and school teachers evaluative information regarding the various levels of proficiency achieved by students, so that they may have an additional tool to plan, measure, and evaluate the effectiveness of programs in the public schools.

(b) The information may also be used to recognize excellence and to identify the need for additional resources or to reallocate educational resources in a manner to assure educational opportunities for all students and to improve existing programs.

Amended by Chapter 219, 2000 General Session

53A-1-602. Definitions.

As used in this part:

(1) "Basic skills course" means a subject which requires mastery of specific functions, as defined under rules made by the State Board of Education, to include reading, language arts, mathematics, science in grades 4 through 12, and effectiveness of written expression.

(2) "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(3) "Utah's common core" means the core set of English language arts and mathematics standards developed and adopted by the State Board of Education which define the knowledge and skills students should have in kindergarten through grade 12 to enable them to be prepared for college or workforce training.

(4) "Utah Performance Assessment System for Students" or "U-PASS" means:

(a) as determined by the State Board of Education, criterion-referenced achievement testing or online computer adaptive testing of students in grades 3 through 12 in basic skills courses;

(b) an online writing assessment in grades 5 and 8;

(c) college readiness assessments as detailed in Section 53A-1-611;

(d) the use of student behavior indicators in assessing student performance;
and

(e) testing of students in grade 3 to measure reading grade level.

Amended by Chapter 161, 2013 General Session

53A-1-603. Duties of State Board of Education.

(1) The State Board of Education shall:

(a) require each school district and charter school to implement the Utah Performance Assessment System for Students, hereafter referred to as U-PASS;

(b) require the state superintendent of public instruction to submit and recommend criterion-referenced achievement tests or online computer adaptive tests, college readiness assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3 to measure reading grade level to the board for approval and adoption and distribution to each school district and charter school by the state superintendent;

(c) develop an assessment method to uniformly measure statewide performance, school district performance, and school performance of students in grades 3 through 12 in mastering basic skills courses; and

(d) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program.

(2) Except as provided in Subsection (3) and Subsection 53A-1-611(3), under U-PASS, the State Board of Education shall annually require each school district and charter school, as applicable, to administer:

(a) as determined by the State Board of Education, statewide criterion-referenced tests or online computer adaptive tests in grades 3 through 12 and courses in basic skill areas of the core curriculum;

(b) an online writing assessment to all students in grades 5 and 8;

(c) college readiness assessments as detailed in Section 53A-1-611; and

(d) a test to all students in grade 3 to measure reading grade level.

(3) Beginning with the 2014-15 school year, the State Board of Education shall annually require each school district and charter school, as applicable, to administer a computer adaptive assessment system that is:

(a) adopted by the State Board of Education; and

(b) aligned to Utah's common core.

(4) The board shall adopt rules for the conduct and administration of U-PASS to include the following:

(a) the computation of student performance based on information that is disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch;

(b) security features to maintain the integrity of the system, which could include statewide uniform testing dates, multiple test forms, and test administration protocols;

(c) the exemption of student test scores, by exemption category, such as limited English proficiency, mobility, and students with disabilities, with the percent or number of student test scores exempted being publically reported at a district level;

(d) compiling of criterion-referenced, online computer adaptive, and online writing test scores and test score averages at the classroom level to allow for:

(i) an annual review of those scores by parents of students and professional and other appropriate staff at the classroom level at the earliest point in time;

(ii) the assessment of year-to-year student progress in specific classes, courses, and subjects;

(iii) a teacher to review, prior to the beginning of a new school year, test scores from the previous school year of students who have been assigned to the teacher's

class for the new school year;

(e) allowing a school district or charter school to have its tests administered and scored electronically to accelerate the review of test scores and their usefulness to parents and educators under Subsection (4)(d), without violating the integrity of U-PASS; and

(f) providing that scores on the tests and assessments required under Subsection (2)(a) and Subsection (3) shall be considered in determining a student's academic grade for the appropriate course and whether a student shall advance to the next grade level.

(5) (a) A school district or charter school, as applicable, is encouraged to administer an online writing assessment to students in grade 11.

(b) The State Board of Education may award a grant to a school district or charter school to pay for an online writing assessment and instruction program that may be used to assess the writing of students in grade 11.

(6) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding money for computer adaptive tests;

(b) specifying how money for computer adaptive tests shall be allocated among school districts and charter schools that qualify to receive the money; and

(c) requiring reporting of the expenditure of money awarded for computer adaptive testing and evidence that the money was used to implement computer adaptive testing.

(7) The State Board of Education shall assure that computer adaptive tests are administered in compliance with the requirements of Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act.

(8) (a) The State Board of Education shall establish a committee consisting of 15 parents of Utah public education students to review all computer adaptive test questions.

(b) The committee established in Subsection (8)(a) shall include the following parent members:

(i) five members appointed by the chair of the State Board of Education;

(ii) five members appointed by the speaker of the House of Representatives;

and

(iii) five members appointed by the president of the Senate.

(c) The State Board of Education shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (8)(b) is four years.

(e) The chair of the State Board of Education, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately 1/2 of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

(9) (a) School districts and charter schools shall require each licensed employee to complete two hours of professional development on youth suicide prevention within

their license cycle in accordance with Section 53A-6-104.

(b) The State Board of Education shall develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention.

(c) The training required by this Subsection (9) shall be incorporated into professional development training required by rule in accordance with Section 53A-6-104.

Amended by Chapter 161, 2013 General Session

53A-1-603.5. Unique student identifier -- Coordination of higher education and public education information technology systems.

(1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:

(a) is not assigned to any former or current student; and

(b) does not incorporate personal information, including a birth date or Social Security number.

(2) The State Board of Education, through the superintendent of public instruction, shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.

(3) The State Board of Education and the State Board of Regents shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53B-1-109.

(4) The State Board of Education and State Board of Regents shall coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

Enacted by Chapter 147, 2006 General Session

53A-1-604. Test development, publication, and administration.

(1) The State Board of Education shall develop, publish, and administer criterion-referenced tests.

(2) The board may use the expert services of any person in the public or private sector in:

(a) evaluating current tests and assessment programs; or

(b) developing, publishing, and administering new tests.

Amended by Chapter 161, 2013 General Session

53A-1-605. Analysis of results -- Staff professional development.

(1) The State Board of Education, through the state superintendent of public instruction, shall develop a plan to analyze the results of the U-PASS scores for all grade levels and courses required under Section 53A-1-603 and the student behavior indicators referred to in Section 53A-1-602.

- (2) The plan shall include components designed to:
 - (a) assist school districts and individual schools to use the results of the analysis in planning, evaluating, and enhancing programs; and
 - (b) identify schools not achieving state-established acceptable levels of student performance in order to assist those schools in raising their student performance levels.
- (3) The plan shall include provisions for statistical reporting of criterion-referenced or online computer adaptive test results at state, school district, school, and grade or course levels, and shall include actual levels of performance on tests.
- (4) Each local school board and charter school governing board shall provide for:
 - (a) evaluation of the U-PASS test results and use of the evaluations in setting goals and establishing programs; and
 - (b) a professional development program that provides teachers, principals, and other professional staff with the training required to successfully establish and maintain U-PASS.

Amended by Chapter 11, 2010 General Session

53A-1-606.5. State reading goal -- Reading achievement plan.

- (1) As used in this section:
 - (a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.
 - (b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.
- (2) (a) The Legislature recognizes that:
 - (i) reading is the most fundamental skill, the gateway to knowledge and lifelong learning;
 - (ii) there is an ever increasing demand for literacy in the highly technological society we live in;
 - (iii) students who do not learn to read will be economically and socially disadvantaged;
 - (iv) reading problems exist in almost every classroom;
 - (v) almost all reading failure is preventable if reading difficulties are diagnosed and treated early; and
 - (vi) early identification and treatment of reading difficulties can result in students learning to read by the end of the third grade.
- (b) It is therefore the goal of the state to have every student in the state's public education system reading on or above grade level by the end of the third grade.
- (3) (a) Each public school containing kindergarten, grade one, grade two, or grade three, including charter schools, shall develop, in conjunction with all other school planning processes and requirements, a reading achievement plan for its students in kindergarten through grade three to reach the reading goal set in Subsection (2)(b).
- (b) The reading achievement plan shall be:
 - (i) created under the direction of:

(A) the school community council or a subcommittee or task force created by the school community council, in the case of a school district school; or

(B) the charter school governing board or a subcommittee or task force created by the governing board, in the case of a charter school; and

(ii) implemented by the school's principal, teachers, and other appropriate school staff.

(c) The school principal shall take primary responsibility to provide leadership and allocate resources and support for teachers and students, most particularly for those who are reading below grade level, to achieve the reading goal.

(d) Each reading achievement plan shall include:

(i) an assessment component that:

(A) focuses on ongoing formative assessment to measure the five domains of reading, as appropriate, and inform individualized instructional decisions; and

(B) includes a benchmark assessment of reading approved by the State Board of Education pursuant to Section 53A-1-606.6;

(ii) an intervention component:

(A) that provides adequate and appropriate interventions focused on each student attaining competency in reading skills;

(B) based on best practices identified through proven researched-based methods;

(C) that provides intensive intervention, such as focused instruction in small groups and individualized data driven instruction, implemented at the earliest possible time for students having difficulty in reading;

(D) that provides an opportunity for parents to receive materials and guidance so that they will be able to assist their children in attaining competency in reading skills; and

(E) that, as resources allow, may involve a reading specialist; and

(iii) a reporting component that includes reporting to parents:

(A) at the beginning, in the middle, and at the end of grade one, grade two, and grade three, their child's benchmark assessment results as required by Section 53A-1-606.6; and

(B) at the end of third grade, their child's reading level.

(e) In creating or reviewing a reading achievement plan as required by this section, a school community council, charter school governing board, or a subcommittee or task force of a school community council or charter school governing board may not have access to data that reveal the identity of students.

(4) (a) The school district shall approve each plan developed by schools within the district prior to its implementation and review each plan annually.

(b) The charter school governing board shall approve each plan developed by schools under its control and review each plan annually.

(c) A school district and charter school governing board shall:

(i) monitor the learning gains of a school's students as reported by the benchmark assessments administered pursuant to Section 53A-1-606.6; and

(ii) require a reading achievement plan to be revised, if the school district or charter school governing board determines a school's students are not making adequate learning gains.

Amended by Chapter 466, 2013 General Session

53A-1-606.6. Benchmark assessments in reading -- Report to parent or guardian.

- (1) As used in this section:
 - (a) "Board" means the State Board of Education.
 - (b) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.
- (2) The board shall approve a benchmark assessment for use statewide by school districts and charter schools to assess the reading competency of students in grades one, two, and three as provided by this section.
- (3) A school district or charter school shall:
 - (a) administer benchmark assessments to students in grades one, two, and three at the beginning, middle, and end of the school year using the benchmark assessment approved by the board; and
 - (b) after administering a benchmark assessment, report the results to a student's parent or guardian.
- (4) If a benchmark assessment or supplemental reading assessment indicates a student lacks competency in a reading skill, or is lagging behind other students in the student's grade in acquiring a reading skill, the school district or charter school shall:
 - (a) provide focused individualized intervention to develop the reading skill;
 - (b) administer formative assessments to measure the success of the focused intervention;
 - (c) inform the student's parent or guardian of activities that the parent or guardian may engage in with the student to assist the student in improving reading proficiency; and
 - (d) provide information to the parent or guardian regarding appropriate interventions available to the student outside of the regular school day that may include tutoring, before and after school programs, or summer school.

Amended by Chapter 466, 2013 General Session

53A-1-606.7. State Board of Education required to contract for a diagnostic assessment system for reading.

- (1) The State Board of Education shall contract with an educational technology provider, selected through a request for proposals process, for a diagnostic assessment system for reading for students in kindergarten through grade three that meets the requirements of this section.
- (2) The diagnostic assessment system for reading shall be made available to school districts and charter schools that apply to use the diagnostic assessment for reading beginning in the 2011-12 school year.
- (3) The diagnostic assessment system for reading for students in kindergarten through grade three shall:
 - (a) include benchmark assessments of reading proficiency to be administered at

the beginning, in the middle, and at the end of kindergarten, grade one, grade two, and grade three;

(b) include formative assessments to be administered every two to four weeks for students who are at high risk of not attaining proficiency in reading;

(c) align with the language arts core curriculum adopted by the State Board of Education; and

(d) include a data analysis component hosted by the contractor that:

(i) has the capacity to generate electronic information immediately and produce individualized student progress reports, class summaries, and class groupings for instruction;

(ii) has the capability of identifying lesson plans that may be used to develop reading skills;

(iii) enables teachers, administrators, and designated supervisors to access reports through a secured password system;

(iv) produces electronic printable reports for parents and administrators; and

(v) has the capability for principals to monitor usage by teachers.

(4) (a) The benchmark and formative assessments specified in Subsections (3)(a) and (b) shall be available to be downloaded to a portable technology device so that a teacher may be able to sit beside a student as the student is being assessed at any location in the classroom or throughout the school.

(b) After an assessment is downloaded to a portable technology device, the device shall have the capability to operate in stand-alone mode if the Internet connection is lost.

(c) After an assessment is completed and uploaded to the data analysis component, the data analysis component shall be capable of allowing data and reports to be viewed and printed immediately.

(5) The State Board of Education shall:

(a) evaluate the effects of the diagnostic assessment system for reading by comparing the learning gains of students in school districts and charter schools that use the diagnostic assessment system for reading with the learning gains of students in school districts and charter schools that do not use the diagnostic assessment system for reading; and

(b) submit a report on the evaluation to the Public Education Appropriations Subcommittee by November 2013.

Enacted by Chapter 372, 2011 General Session

53A-1-607. Scoring -- Reports of results.

(1) Each local school board and charter school shall submit all answer sheets for the achievement tests administered under U-PASS on a per-school and per-class basis to the state superintendent of public instruction for scoring unless the test requires scoring by a national testing service.

(2) The district, school, and class results of the U-PASS testing program, but not the score or relative position of individual students, shall be reported to each local school board or charter school governing board annually at a regularly scheduled meeting.

(3) Each local board and charter school governing board shall make copies of the report available to the general public upon request.

(4) The board may charge a fee for the copying costs.

(5) The State Board of Education shall annually provide to school districts and charter schools a comprehensive report for each of their students showing the student's U-PASS test results for each year the student took a U-PASS test. School districts and charter schools shall give a copy of the comprehensive report to the student's parents and make the report available to school staff, as appropriate.

Amended by Chapter 299, 2009 General Session

53A-1-608. Preparation for tests.

(1) School district employees may not carry on any specific instruction or preparation of students which would be a breach of testing ethics, such as the teaching of specific test questions.

(2) School district employees who administer the test shall follow the standardization procedures in the publisher's test administration manual and any additional specific instructions developed by the State Board of Education.

(3) The State Board of Education may revoke the certification of an individual who violates this section.

Enacted by Chapter 267, 1990 General Session

53A-1-609. Construction of part.

Nothing in this part shall be construed to mean or represented to require that graduation from a high school or promotion to another grade is in any way dependent upon successful performance of any test administered as a part of the testing program established under this part.

Amended by Chapter 161, 2013 General Session

53A-1-610. Grade specification replacement.

(1) The State Board of Education may replace the grade specification for the administration of specific tests under this part with a specification of age or time elapsed since the student entered school if the replacement specification is more consistent with patterns of school organization.

(2) The board shall submit a report to the Legislature explaining the reasons for replacing the grade specification. The board shall submit the report at least six months prior to the anticipated change.

Enacted by Chapter 267, 1990 General Session

53A-1-611. College readiness assessments.

(1) The Legislature recognizes the need for the State Board of Education to develop and implement standards and assessment processes to ensure that student progress is measured and that school boards and school personnel are accountable.

(2) In addition to its responsibilities under Sections 53A-1-603 through 53A-1-605, the State Board of Education shall:

(a) adopt college readiness assessments for secondary students; and
(b) require school districts and charter schools to administer the college readiness assessments adopted by the State Board of Education beginning with the 2013-14 school year.

(3) The college readiness assessments adopted by the State Board of Education:

(a) shall include the college admissions test that includes an assessment of language arts, mathematics, and science that is most commonly submitted to local universities; and

(b) may include:

(i) the Armed Services Vocational Aptitude Battery; and

(ii) a battery of assessments that are predictive of success in higher education.

(4) (a) Except as provided in Subsection (4)(b), the State Board of Education shall require school districts and charter schools to administer a test adopted under Subsection (3)(a) to all students in grade 11.

(b) A student with an IEP may take an appropriate college readiness assessment other than a test adopted by the State Board of Education under Subsection (3)(a), as determined by the student's IEP.

(5) The requirements of this section are to be complementary to the other achievement testing provisions of this part.

Amended by Chapter 161, 2013 General Session

53A-1-613. Online test preparation program.

(1) The State Board of Education shall contract with a provider, selected through a request for proposals process, to provide an online program to prepare students to take the college admissions test that includes an assessment of language arts, mathematics, and science that is most commonly submitted to local universities.

(2) An online test preparation program described in Subsection (1):

(a) (i) shall allow a student to independently access online materials and learn at the student's own pace; and

(ii) may be used to provide classroom and teacher-assisted instruction;

(b) shall provide online study materials, diagnostic exams, drills, and practice tests in an approach that is engaging to high school students;

(c) shall enable electronic reporting of student progress to administrators, teachers, parents, and other facilitators;

(d) shall record a student's progress in an online dashboard that provides diagnostic assessment of the content areas tested and identifies mastery of corresponding skill sets; and

(e) shall provide training and professional development to personnel in school districts and charter schools on how to utilize the online test preparation program and provide teacher-assisted instruction to students.

(3) To be eligible to administer a college admissions test provided by the State Board of Education from funds appropriated for college readiness assessments, a

school district or charter school shall:

- (a) promote the use of the online test preparation program; and
- (b) inform parents and students of the availability of, and how to access and use, the online test preparation program.

(4) The State Board of Education, school districts, and charter schools shall make the online test preparation program available to a student:

- (a) beginning in the 2013-14 school year; and
- (b) for at least one full year, except a student in grade 11 in the 2013-14 school year shall have access to the online test preparation program as soon as the program can be made operational.

Enacted by Chapter 161, 2013 General Session

53A-1-706. Purchases of educational technology.

(1) (a) A school district or college of education shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in purchasing technology, except as otherwise provided in Subsection (1)(b).

(b) A school district may purchase computers from, and contract for the repair or refurbishing of computers with, the Utah Correctional Industries without going through the bidding or competition procedures outlined in Title 63G, Chapter 6a, Utah Procurement Code.

(2) A school district or college of education may purchase technology through cooperative purchasing contracts administered by the state Division of Purchasing or through its own established purchasing program.

Amended by Chapter 347, 2012 General Session

53A-1-708. Grants for online delivery of U-PASS tests.

(1) As used in this section:

(a) "Adaptive tests" means tests administered during the school year using an online adaptive test system.

(b) "Summative tests" means tests administered near the end of a course to assess overall achievement of course goals.

(c) "Uniform online summative test system" means a single system for the online delivery of summative tests required under U-PASS that:

- (i) is coordinated by the Utah State Office of Education;
- (ii) ensures the reliability and security of U-PASS tests; and
- (iii) is selected through collaboration between Utah State Office of Education and school district representatives with expertise in technology, assessment, and administration.

(d) "U-PASS" means the Utah Performance Assessment System for Students.

(e) "Utah's common core" means the core set of English language arts and mathematics standards developed and adopted by the State Board of Education that define the knowledge and skills students should have in kindergarten through grade 12 to enable them to be prepared for college or workforce training.

(2) The State Board of Education may award grants to school districts and

charter schools to implement one or both of the following:

(a) a uniform online summative test system to enable parents of students and school staff to review U-PASS test scores by the end of the school year; or

(b) an online adaptive test system to enable parents of students and school staff to measure and monitor a student's academic progress during a school year.

(3) (a) Grant money may be used to pay for any of the following, provided it is directly related to implementing a uniform online summative test system, an online adaptive test system, or both:

(i) computer equipment and peripherals, including electronic data capture devices designed for electronic test administration and scoring;

(ii) software;

(iii) networking equipment;

(iv) upgrades of existing equipment or software;

(v) upgrades of existing physical plant facilities;

(vi) personnel to provide technical support or coordination and management;

and

(vii) teacher professional development.

(b) Equipment purchased in compliance with Subsection (3)(a), when not in use for the online delivery of summative tests or adaptive tests required under U-PASS may be used for other purposes.

(4) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding grants;

(b) specifying how grant money shall be allocated among school districts and charter schools;

(c) requiring reporting of grant money expenditures and evidence showing that the grant money has been used to implement a uniform online summative test system, an online adaptive test system, or both;

(d) establishing technology standards for an online adaptive testing system;

(e) requiring a school district or charter school that receives a grant under this section to implement, in compliance with Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act, an online adaptive test system by the 2014-15 school year that:

(i) meets the technology standards established under Subsection (4)(d); and

(ii) is aligned with Utah's common core;

(f) requiring a school district or charter school to provide matching funds to implement a uniform online summative test system, an online adaptive test system, or both in an amount that is greater than or equal to the amount of a grant received under this section; and

(g) assuring that student identifiable data is not released to any person, except as provided by Section 53A-13-301 and rules of the State Board of Education adopted under that section.

(5) If a school district or charter school uses grant money for purposes other than those stated in Subsection (3), the school district or charter school is liable for reimbursing the State Board of Education in the amount of the grant money improperly used.

(6) A school district or charter school may not use federal funds to provide the matching funds required to receive a grant under this section.

(7) A school district may not impose a tax rate above the certified tax rate for the purpose of generating revenue to provide matching funds for a grant under this section.

Amended by Chapter 367, 2012 General Session

53A-1-709. Smart School Technology Program.

(1) As used in this section, "program" means the Smart School Technology Program.

(2) The Smart School Technology Program is created to encourage the deployment of whole-school one-to-one mobile device technology in public schools.

(3) The Board of Business and Economic Development with input from an independent evaluating committee, shall issue a request for proposals for the development and implementation of a whole-school one-to-one mobile device technology deployment plan for schools.

(4) From recommendations submitted by an independent evaluating committee, the Board of Business and Economic Development shall select a single education technology provider with integrated whole-school technology deployment experience through the request for proposals process.

(5) (a) An independent evaluating committee shall be established to:

(i) advise the Board of Business and Economic Development in issuing a request for proposals under Subsection (3);

(ii) evaluate proposals submitted through a request for proposals issued under Subsection (3); and

(iii) advise the State Board of Education on selecting schools to participate in the program.

(b) The membership of the independent evaluating committee shall include:

(i) three members of the State Board of Education appointed by the chair of the State Board of Education;

(ii) the state chief information officer;

(iii) two members appointed by the executive director of the Governor's Office of Economic Development; and

(iv) the governor's education director.

(c) The independent evaluating committee shall evaluate a proposal on:

(i) a provider's experience with integrated whole-school technology deployment; and

(ii) the components of a whole-school technology deployment plan.

(6) An educational technology provider selected under Subsection (4) shall develop a customized whole-school one-to-one mobile device technology deployment plan for each school participating in the program.

(7) The whole-school technology deployment plan shall be based on submitted proposals to the committee and may include the following components:

(a) a personal mobile learning device for each student;

(b) desktop or laptop computers for each classroom;

(c) peripherals and networking equipment, including a wireless network that is not self-interfering;

(d) wireless audio equipment in each classroom;

- (e) digital projectors or televisions with wireless device mirroring technology;
 - (f) on and off campus Internet filtering;
 - (g) operating software for the technology system, including software that connects personal mobile learning devices among students and a teacher to facilitate classroom interaction;
 - (h) curriculum and instructional software purchase credits per device to be used toward improving student outcomes with respect to the core curriculum and skill building on the use of technology;
 - (i) device repair and replacement criteria;
 - (j) professional development for educators and technology specialists on:
 - (i) the operation and use of the technology equipment; and
 - (ii) accessing and using online content; and
 - (k) ongoing technical support.
- (8) (a) A school within a school district, with the approval of the local school board, or a charter school, may submit an application to the State Board of Education to participate in the program.
- (b) With input from the independent evaluating committee established under Subsection (5), the State Board of Education shall select schools to participate in the program.
- (c) In selecting schools, the State Board of Education shall seek to include in the program schools:
- (i) from different regions of the state;
 - (ii) from urban and rural areas;
 - (iii) with a variety of economic and demographic characteristics; and
 - (iv) with documented technology implementation plans, including a plan for the use of:
 - (A) instructional software that improves student outcomes with respect to the core curriculum; and
 - (B) software that provides students with skill building on the use of technology.
- (d) The State Board of Education shall make rules:
- (i) specifying procedures and criteria to be used for selecting schools that may participate in the program; and
 - (ii) requiring selected schools to provide matching funds to participate in the program.
- (9) (a) The State Board of Education, in collaboration with the education technology provider and the schools participating in the program, shall evaluate the program and submit a report on the evaluation to the Governor's Office of Economic Development and the Education Interim Committee by the committee's October meetings in 2013 and 2014.
- (b) The State Board of Education may contract with an independent evaluator to conduct the evaluation required in Subsection (9)(a).
- (c) The evaluation shall be based on the following criteria:
- (i) technology system functionality;
 - (ii) school level outcomes;
 - (iii) teacher instruction and outcomes; and
 - (iv) student engagement and outcomes.

Amended by Chapter 173, 2013 General Session

53A-1-801. Child literacy program -- Coordinated activities.

(1) The State Board of Education, through the state superintendent of public instruction, shall provide for a public service campaign to educate parents on the importance of providing their children with opportunities to develop emerging literacy skills through a statewide "Read to Me" program.

(2) The board shall coordinate its activities under this section with other state and community entities that are engaged in child literacy programs in order to maximize its efforts and resources, including the Utah Commission on National and Community Service.

Amended by Chapter 210, 2002 General Session

53A-1-901. Title.

This part is known as the "Implementing Federal Programs Act."

Enacted by Chapter 2, 2005 Special Session 1

53A-1-902. Definitions.

As used in this part:

(1) (a) "Cost" means an estimation of state and local money required to implement a federal education agreement.

(b) "Cost" does not include capital costs associated with implementing a federal education agreement.

(2) "Education entities" means the entities that may bear the state and local costs of implementing a federal program, including:

(a) the State Board of Education;

(b) the state superintendent and the State Office of Education;

(c) a local school board;

(d) a school district and its schools;

(e) a charter school governing board; and

(f) a charter school.

(3) "Federal education agreement" means a legally binding document or representation that requires a school official to implement a federal program that originates from the U.S. Department of Education and that has, as a primary focus, an impact on the educational services at a district or charter school.

(4) "Federal programs" include:

(a) the No Child Left Behind Act;

(b) the Individuals with Disabilities Education Act Amendments of 1997, Public Law 105-17, and subsequent amendments; and

(c) other federal educational programs.

(5) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.

(6) "School official" includes:

- (a) the State Board of Education;
- (b) the state superintendent;
- (c) employees of the State Board of Education and the state superintendent;
- (d) local school boards;
- (e) school district superintendents and employees; and
- (f) charter school board members, administrators, and employees.

Amended by Chapter 112, 2009 General Session

53A-1-903. Federal programs -- School official duties.

- (1) School officials may:
 - (a) apply for, receive, and administer funds made available through programs of the federal government;
 - (b) only expend federal funds for the purposes for which they are received and are accounted for by the state, school district, or charter school; and
 - (c) reduce or eliminate a program created with or expanded by federal funds to the extent allowed by law when federal funds for that program are subsequently reduced or eliminated.
- (2) School officials shall:
 - (a) prioritize resources, especially to resolve conflicts between federal provisions or between federal and state programs, including:
 - (i) providing first priority to meeting state goals, objectives, program needs, and accountability systems as they relate to federal programs; and
 - (ii) providing second priority to implementing federal goals, objectives, program needs, and accountability systems that do not directly and simultaneously advance state goals, objectives, program needs, and accountability systems;
 - (b) interpret the provisions of federal programs in the best interest of students in this state;
 - (c) maximize local control and flexibility;
 - (d) minimize additional state resources that are diverted to implement federal programs beyond the federal money that is provided to fund the programs;
 - (e) request changes to federal educational programs, especially programs that are underfunded or provide conflicts with other state or federal programs, including:
 - (i) federal statutes;
 - (ii) federal regulations; and
 - (iii) other federal policies and interpretations of program provisions; and
 - (f) seek waivers from all possible federal statutes, requirements, regulations, and program provisions from federal education officials to:
 - (i) maximize state flexibility in implementing program provisions; and
 - (ii) receive reasonable time to comply with federal program provisions.
- (3) The requirements of school officials under this part, including the responsibility to lobby federal officials, are not intended to mandate school officials to incur costs or require the hiring of lobbyists, but are intended to be performed in the course of school officials' normal duties.

Amended by Chapter 342, 2011 General Session

53A-1-904. No Child Left Behind -- State implementation.

(1) (a) In accordance with the No Child Left Behind Act, including Section 9527, school officials shall determine, as applied to their responsibilities, if the No Child Left Behind Act:

(i) requires the state to spend state or local resources in order to comply with the No Child Left Behind Act; or

(ii) causes the state, local education agencies, or schools to change curriculum in order to comply.

(b) School officials shall request a waiver under Section 9401 of the No Child Left Behind Act of any provision of the No Child Left Behind Act that violates Section 9527.

(2) In addition to the duties described under Subsection (1), school officials shall:

(a) request reasonable time to comply with the provisions of the No Child Left Behind Act;

(b) lobby Congress for needed changes to the No Child Left Behind Act; and

(c) lobby federal education officials for relief from the provisions of the No Child Left Behind Act, including waivers from federal requirements, regulations, and administrative burdens.

(3) School officials shall lobby Congress and federal education officials for needed resolution and clarification for conflicts between the No Child Left Behind Act and the Individuals with Disabilities Education Act.

(4) In the case of conflicts between the No Child Left Behind Act and the Individuals with Disabilities Education Act, the parents, in conjunction with school officials, shall determine which program best meets the educational needs of the student.

Enacted by Chapter 2, 2005 Special Session 1

53A-1-905. Notice of voidableness of federal education agreements.

A federal education agreement that may cost education entities more than \$500,000 annually from state and local money to implement, that is executed by a school official in violation of this part, is voidable by the governor or the Legislature as provided in this part.

Amended by Chapter 112, 2009 General Session

53A-1-906. Governor to approve federal education agreements.

(1) Before legally binding the state by executing a federal education agreement that may cost education entities more than \$500,000 annually from state and local money to implement, a school official shall submit the proposed federal education agreement to the governor for the governor's approval or rejection.

(2) The governor shall approve or reject each federal education agreement.

(3) (a) If the governor approves the federal education agreement, the school official may execute the agreement.

(b) If the governor rejects the federal education agreement, the school official

may not execute the agreement.

(4) If a school official executes a federal education agreement without obtaining the governor's approval under this section, the governor may issue an executive order declaring the federal education agreement void.

Amended by Chapter 112, 2009 General Session

53A-1-907. Legislative review and approval of federal education agreements.

(1) (a) Before legally binding the state by executing a federal education agreement that may cost education entities more than \$1,000,000 annually from state and local money to implement, the school official shall:

(i) submit the proposed federal education agreement to the governor for the governor's approval or rejection as required by Section 53A-1-906; and

(ii) if the governor approves the federal education agreement, submit the federal education agreement to the Executive Appropriations Committee of the Legislature for its review and recommendations.

(b) The Executive Appropriations Committee shall review the federal education agreement and may:

(i) recommend that the school official execute the federal education agreement;

(ii) recommend that the school official reject the federal education agreement; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the federal education agreement.

(2) (a) Before legally binding the state by executing a federal education agreement that may cost education entities more than \$5,000,000 annually to implement, a school official shall:

(i) submit the proposed federal education agreement to the governor for the governor's approval or rejection as required by Section 53A-1-906; and

(ii) if the governor approves the federal education agreement, submit the federal education agreement to the Legislature for its approval in an annual general session or a special session.

(b) (i) If the Legislature approves the federal education agreement, the school official may execute the agreement.

(ii) If the Legislature rejects the federal education agreement, the school official may not execute the agreement.

(c) If a school official executes a federal education agreement without obtaining the Legislature's approval under this Subsection (2):

(i) the governor may issue an executive order declaring the federal education agreement void; or

(ii) the Legislature may pass a joint resolution declaring the federal education agreement void.

Amended by Chapter 112, 2009 General Session

53A-1-908. Cost evaluation of federal education agreements.

(1) Before legally binding the state to a federal education agreement that may

cost the state a total of \$500,000 or more to implement, a school official shall estimate the state and local cost of implementing the federal education agreement and submit that cost estimate to the governor and the Executive Appropriations Committee of the Legislature.

(2) The Executive Appropriations Committee may:

(a) direct its staff to make an independent cost estimate of the cost of implementing the federal education agreement; and

(b) affirmatively adopt a cost estimate as the benchmark for determining which authorizations established by this part are necessary.

Amended by Chapter 112, 2009 General Session

53A-1-1001. Interstate Compact on Educational Opportunity for Military Children.

ARTICLE I PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

ARTICLE II DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211.

B. "Children of military families" means: a school-aged child, enrolled in Kindergarten through Twelfth grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each

compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means: the period one month prior to the service members' departure from their home station on military orders though six months after return to their home station.

E. "Education" or "educational records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions.

I. "Member state" means: a state that has enacted this compact.

J. "Military installation" means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Non-member state" means: a state that has not enacted this compact.

L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of a rule promulgated under Utah Code Annotated Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory.

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through

Twelfth grade.

Q. "Transition" means: 1) the formal and physical process of transferring from school to school; or 2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed service" means: the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means: a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III APPLICABILITY

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;

2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. inactive members of the national guard and military reserves;

2. members of the uniformed services now retired, except as provided in Section

A;

3. veterans of the uniformed services, except as provided in Section A, and other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV EDUCATIONAL RECORDS & ENROLLMENT

A. Unofficial or "hand-carried" education records -- In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records or transcripts -- Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate

Commission.

C. Immunizations -- Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First grade entrance age -- Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including Kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. Students transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V PLACEMENT & ATTENDANCE

A. Course placement -- When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.

B. Educational program placement -- The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services -- 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current Individualized Education Program (IEP); and 2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent

evaluations to ensure appropriate placement of the student.

D. Placement flexibility -- Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement, in courses or programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities -- A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI ELIGIBILITY

A. Eligibility for enrollment.

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the student was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation -- State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII GRADUATION

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements -- Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams -- States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; 2) national norm-referenced achievement tests; or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in the student's Senior year, then the provisions of Article VII,

Section C shall apply.

C. Transfers during Senior year -- Should a military student transferring at the beginning or during the student's Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense shall serve as an ex-officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. relate solely to the Interstate Commission's internal personnel practices and procedures;

2. disclose matters specifically exempted from disclosure by federal and state statute;

3. disclose trade secrets or commercial or financial information which is

privileged or confidential;

4. involve accusing a person of a crime, or formally censuring a person;
5. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. disclose investigative records compiled for law enforcement purposes; or
7. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

- A. To provide for dispute resolution among member states.
- B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of rules promulgated under Utah Code Annotated Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and shall be binding in the compact states to the extent and in the manner provided in this compact.
- C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.
- D. To monitor compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws. Any action to enforce compliance with the compact provision by the Interstate Commission shall be brought against a member state only.
- E. To establish and maintain offices which shall be located within one or more of the member states.

- F. To purchase and maintain insurance and bonds.
- G. To borrow, accept, hire, or contract for services of personnel.
- H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
- I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
- K. To lease, purchase, accept contributions, or donations of, or otherwise to own, hold, improve, or use any property - real, personal, or mixed.
- L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property - real, personal, or mixed.
- M. To establish a budget and make expenditures.
- N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
- O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
- P. To coordinate education, training, and public awareness regarding the compact and its implementation and operation for officials and parents involved in such activity.
- Q. To establish uniform standards for the reporting, collecting, and exchanging of data.
- R. To maintain corporate books and records in accordance with the bylaws.
- S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
- T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

- A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
 - 1. establishing the fiscal year of the Interstate Commission;
 - 2. establishing an executive committee, and such other committees as may be necessary;
 - 3. providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
 - 4. providing reasonable procedures for calling and conducting meetings of the

Interstate Commission, and ensuring reasonable notice of each such meeting;

5. establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

6. providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

7. providing "start up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers, and Personnel.

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including, but not limited to:

a. managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

b. overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided that, such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that

state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, the member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority -- The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure -- Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided that, the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight.

1. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as a rule promulgated under Utah Code Annotated Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

B. Default, Technical Assistance, Suspension, and Termination -- If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, not to exceed \$5,000 per year, as provided in Article XIV, Subsection E, for each year that this state is a member of the compact.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district

where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

C. Dispute Resolution.

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. In accordance with the funding limit established in Subsection E, the Interstate Commission may levy and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

E. The Interstate Commission may not assess, levy, or collect more than \$5,000 per year from Utah legislative appropriations. Other funding sources may be accepted and used to offset expenses related to the state's participation in the compact.

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI WITHDRAWAL AND DISSOLUTION

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that, a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, not to exceed \$5,000 per year, as provided in Article XIV, Subsection E, for each year that this state is a member of the compact.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact.

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws -- Nothing herein prevents the enforcement of any other law of a member state.

B. Binding Effect of the Compact.

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the statutory or constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the statutory or constitutional provision in question in that member state.

Enacted by Chapter 395, 2010 General Session

53A-1-1002. Creation of State Council on Military Children.

(1) There is established a State Council on Military Children, as required in Article VIII of Section 53A-1-1001.

(2) The members of the State Council on Military Children shall include:

- (a) the state superintendent of public instruction;
- (b) a superintendent of a school district with a high concentration of military children appointed by the governor;
- (c) a representative from a military installation, appointed by the governor;
- (d) one member of the House of Representatives, appointed by the speaker of the House;
- (e) one member of the Senate, appointed by the president of the Senate;
- (f) a representative from the Department of Veterans' and Military Affairs, appointed by the governor;
- (g) a military family education liaison, appointed by the members listed in Subsections (2)(a) through (f);
- (h) the compact commissioner, appointed in accordance with Section 53A-1-1003; and
- (i) other members as determined by the governor.

(3) The State Council on Military Children shall carry out the duties established in Section 53A-1-1001.

(4) (a) A member who is not a legislator may not receive compensation or per diem.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

53A-1-1003. Appointment of compact commissioner.

The governor, with the consent of the Senate, shall appoint a compact commissioner to carry out the duties described in Section 53A-1-1001.

Enacted by Chapter 395, 2010 General Session

53A-1-1101. Title.

This part is known as the "School Grading Act."

Enacted by Chapter 417, 2011 General Session

53A-1-1102. Definitions.

As used in this part:

- (1) "Alternative school" means a school:
 - (a) established to serve youth who are not succeeding in a traditional school environment; and
 - (b) designated as an alternative school by the State Board of Education.
- (2) "Board" means the State Board of Education.
- (3) "Combination school" means a school that includes:
 - (a) grade 12; and
 - (b) a grade lower than grade 7.
- (4) "High school" means:
 - (a) a school that:
 - (i) includes grade 12; and
 - (ii) does not include any grade lower than grade 7; or
 - (b) grades 9 through 12 of a combination school.
- (5) "Individualized education program" or "IEP" means a written statement, for a student with a disability, that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (6) "Statewide assessment" means a criterion-referenced test of student achievement in language arts, mathematics, or science, including a test administered in a computer adaptive format, which is administered statewide under Part 6, Achievement Tests.
- (7) "Sufficient growth" means a student's scale score on a statewide assessment is equal to or exceeds the student's growth target established pursuant to Section 53A-1-1107.5.
- (8) "Year 1" means the first year of two consecutive years in which a student takes a statewide assessment in the same subject.
- (9) "Year 2" means the second year of two consecutive years in which a student takes a statewide assessment in the same subject.

Amended by Chapter 403, 2014 General Session

53A-1-1103. State Board of Education to establish school grading system -- Report to Education Interim Committee.

- (1) (a) The State Board of Education shall establish a school grading system in accordance with this part in which a school annually is designated a grade of A, B, C, D, or F based on the performance of the school's students on statewide assessments, and for a high school, the graduation rate and, except for the 2012-13 school year, student performance on a college admissions test administered pursuant to Section 53A-1-611.
 - (b) The school grading system established in this part shall be known and referred to as "school grading."
- (2) The State Board of Education shall:
 - (a) model the school grading system described in this part using school performance data for the 2010-11 school year;
 - (b) study modifications to the school grading system; and

(c) make recommendations for proposed legislation to the Education Interim Committee on modifications to the school grading system by the committee's September 2012 meeting.

(3) The school grading system shall take effect for the 2012-13 school year and shall replace the U-PASS accountability system developed and implemented by the State Board of Education.

(4) For the purposes of school grading, the State Board of Education shall create an alignment mapping of scale scores when transitioning to a new assessment system to reflect the standards of academic achievement set by the State Board of Education.

Amended by Chapter 403, 2014 General Session

53A-1-1104. Schools included in grading system.

(1) Except as provided in Subsections (2) through (5), a school that has students who take statewide assessments shall receive a school grade.

(2) A school may not receive a school grade, if the number of a school's students tested is less than the minimum sample size necessary, based on accepted professional practice for statistical reliability or the prevention of the unlawful release of personally identifiable student data under 20 U.S.C. Sec. 1232h.

(3) (a) An alternative school is exempt from school grading.

(b) The board shall annually:

(i) evaluate an alternative school in accordance with an accountability plan approved by the board; and

(ii) report the results on a school report card.

(c) The State Board of Education, a local school board, and a charter school governing board shall provide to a parent or guardian a school report card for an alternative school and electronically publish the school report card in the same manner and at the same time as other school report cards are provided and published pursuant to Section 53A-11-1112.

(4) The State Board of Education shall exempt a school from school grading in the school's first year of operations if the school's local school board or charter school governing board requests the exemption.

(5) The State Board of Education shall exempt a high school from school grading or exempt a combination school from the school grading requirement described in Subsection 53A-1-1104.5(2) in the high school's or combination school's second year of operations if the school's local school board or charter school governing board requests the exemption.

Amended by Chapter 403, 2014 General Session

53A-1-1104.5. Two school grades assigned to a combination school.

The board shall assign two school grades to a combination school as follows:

(1) the board shall assign a school grade based on the proficiency and learning gains of students who are enrolled in a grade below grade 9 as described in Sections 53A-1-1106 and 53A-1-1107; and

- (2) the board shall assign a school grade based on:
 - (a) the proficiency and learning gains of students who are enrolled in grades 9 through 12, as described in Sections 53A-1-1106 and 53A-1-1107;
 - (b) the school's graduation rate calculated in accordance with Section 53A-1-1108; and
 - (c) the percentage of students considered college ready calculated in accordance with Section 53A-1-1108.

Enacted by Chapter 403, 2014 General Session

53A-1-1105. Criteria for determining school grades.

A school's grade shall be based on:

- (1) the proficiency of a school's students in language arts, mathematics, and science as measured by statewide assessments;
- (2) learning gains of a school's students on statewide assessments of language arts, mathematics, and science achievement; and
- (3) for a high school:
 - (a) the graduation rate; and
 - (b) except for the 2012-13 school year, student performance on a college admissions test administered pursuant to Section 53A-1-611.

Amended by Chapter 478, 2013 General Session

Amended by Chapter 478, 2013 General Session, (Coordination Clause)

53A-1-1106. Calculation of points earned for students' proficiency in language arts, mathematics, and science.

- (1) A school shall receive points for the proficiency of a school's students in language arts, mathematics, and science as follows:
 - (a) A school shall receive one point for each percent of the school's students who take a statewide assessment of language arts achievement and score at or above the proficient level.
 - (b) A school shall receive one point for each percent of the school's students who take a statewide assessment of mathematics achievement and score at or above the proficient level.
 - (c) A school shall receive one point for each percent of the school's students who take a statewide assessment of science achievement and score at or above the proficient level.
- (2) A school may earn a maximum of 100 points for each of the criteria listed in Subsections (1)(a), (b), and (c).

Amended by Chapter 478, 2013 General Session

53A-1-1107. Calculation of points earned for students demonstrating sufficient growth in language arts, mathematics, and science.

- (1) A school shall receive points for a school's students demonstrating sufficient growth in language arts, mathematics, and science as follows:

(a) A school shall receive 0.5 points for each percentage of the school's students who take a statewide assessment of language arts achievement and make sufficient growth.

(b) A school shall receive 0.5 points for each percentage of the school's students who take a statewide assessment of mathematics achievement and make sufficient growth.

(c) A school shall receive 0.5 points for each percentage of the school's students who take a statewide assessment of science achievement and make sufficient growth.

(2) A school shall receive points for a school's students who scored below the proficient level on statewide achievement tests in the prior year and who demonstrate sufficient growth in language arts, mathematics, and science as follows:

(a) A school shall receive 0.5 points for each percentage of the school's nonproficient students, as determined by prior year language arts test scores, who take a statewide assessment of language arts achievement and make sufficient growth.

(b) A school shall receive 0.5 points for each percentage of the school's nonproficient students, as determined by prior year mathematics test scores, who take a statewide assessment of mathematics achievement and make sufficient growth.

(c) A school shall receive 0.5 points for each percentage of the school's nonproficient students, as determined by prior year science test scores, who take a statewide assessment of science achievement and make sufficient growth.

(3) A school may earn a maximum of 50 points for each of the criteria listed in Subsections (1)(a), (b), and (c) and (2)(a), (b), and (c).

(4) The State Board of Education shall:

(a) model the school grading system based on awarding points as described in Subsection (2) for students in the lowest quartile, as determined by prior year test scores, who make sufficient growth; and

(b) submit a report on the model results to the Education Interim Committee no later than the committee's November 2013 meeting.

Amended by Chapter 403, 2014 General Session

53A-1-1107.5. Growth target established to determine whether a student demonstrates sufficient growth in a subject.

(1) (a) For the purpose of determining whether a student demonstrates sufficient growth in the 2013-14 school year in language arts, mathematics, or science as provided in Section 53A-1-1107, the board shall establish a growth target for a student for each statewide assessment the student takes.

(b) A student demonstrates sufficient growth in the 2013-14 school year if the student's scale score on a statewide assessment administered in the 2013-14 school year is equal to or exceeds the growth target established pursuant to Subsections (1)(c) and (1)(d).

(c) The board shall establish a 2013-14 growth target for each cohort of students with the same scale score on a particular statewide assessment in the 2012-13 school year.

(d) (i) The board shall establish a 2013-14 growth target based on actual student

growth in the 2011-12 school year as measured by statewide assessments administered at the end of the 2010-11 and 2011-12 school years.

(ii) Among a cohort of students with the same scale score on a particular statewide assessment in the 2010-11 school year, the scale score of the student who scores in the 2011-12 school year, at a percentile determined by the board in rule, becomes the 2013-14 growth target for any student with a scale score in the 2012-13 school year that is the same as the cohort's scale score in the 2010-11 school year.

(2) (a) For the purpose of determining whether a student demonstrates sufficient growth in the 2014-15 school year, or a succeeding school year, in language arts, mathematics, or science as provided in Section 53A-1-1107, the board shall establish a year 2 growth target for a student for each statewide assessment the student takes.

(b) A student demonstrates sufficient growth if the student's scale score on a statewide assessment in year 2 is equal to or exceeds the year 2 growth target established pursuant to Subsections (2)(c) and (2)(d).

(c) The board shall establish a year 2 growth target for each cohort of students with the same scale score on a particular statewide assessment in year 1.

(d) (i) The board shall establish a year 2 growth target based on actual student growth in the 2014-15 school year as measured by statewide assessments administered at the end of the 2013-14 and 2014-15 school years.

(ii) Among a cohort of students with the same scale score on a particular statewide assessment in the 2013-14 school year, the scale score of the student who scores on a similar statewide assessment in the 2014-15 school year, at a percentile determined by the board in rule, becomes the year 2 growth target for statewide assessments administered in the 2014-15 school year and succeeding years for any student with a year 1 scale score that is the same as the cohort's scale score in the 2013-14 school year.

Enacted by Chapter 403, 2014 General Session

53A-1-1108. Calculation of additional points earned for high school graduation and college and career readiness.

(1) In addition to the points described in Sections 53A-1-1106 and 53A-1-1107, a high school shall receive points, as determined by the State Board of Education, for:

(a) the percentage of students who graduate from high school; and

(b) except for the 2012-13 school year, the percentage of students who are considered college ready as measured by a college admissions test administered pursuant to Section 53A-1-611.

(2) (a) Except as provided in Subsection (2)(b), in calculating the percentage of students who graduate, the State Board of Education shall use the same graduation rate for a high school that is used under the federal four-year cohort system.

(b) In calculating a high school graduation rate for the purpose of school grading, the State Board of Education shall exclude from the four-year cohort for the graduating class a student with a disability who has an individualized education program that includes a plan to complete graduation requirements in more than four years.

(3) (a) Except as provided in Subsection (3)(b), for the purpose of school

grading, a student is considered college ready if the student's score in each subject area on the ACT is at or above the College Readiness Benchmark as defined by the ACT.

(b) The board in consultation with the State Board of Regents may adopt by rule a higher subject area score threshold on the ACT to be considered college ready for school grading purposes.

(4) (a) Except as provided in Subsection (4)(b), a school may earn a maximum of 300 points for the criteria described in Subsection (1) with one-half of the maximum number of points allotted to high school graduation and one-half allotted to the percentage of students who are considered college ready as measured by a college admissions test administered pursuant to Section 53A-1-611.

(b) For the 2012-13 school year, a school may earn a maximum of 150 points for the percentage of students who graduate from high school.

Amended by Chapter 403, 2014 General Session

53A-1-1109. Calculation of percent of maximum points earned.

(1) The percent of the maximum number of points a school that is not a high school may earn shall be calculated by:

(a) dividing the sum of the points earned for the criteria listed in Sections 53A-1-1106 and 53A-1-1107 by the maximum number of points that a school may earn as provided in Sections 53A-1-1106 and 53A-1-1107; and

(b) multiplying the quotient calculated under Subsection (1)(a) by 100.

(2) The percent of the maximum number of points a high school may earn shall be calculated by:

(a) dividing the sum of the points earned for the criteria listed in Sections 53A-1-1106, 53A-1-1107, and 53A-1-1108 by the maximum number of points that a school may earn as provided in Sections 53A-1-1106, 53A-1-1107, and 53A-1-1108; and

(b) multiplying the quotient calculated under Subsection (2)(a) by 100.

Enacted by Chapter 417, 2011 General Session

53A-1-1110. Letter grade based on percentage of maximum points earned.

(1) Except as provided in Subsections (2) and (3), a school shall receive a letter grade based on the percentage of the maximum number of points the school may earn as calculated under Section 53A-1-1109 as follows:

- (a) A, 100% - 80%;
- (b) B, 79% - 70%;
- (c) C, 69% - 60%;
- (d) D, 59% - 50%; and
- (e) F, 49% or less.

(2) When 85% of schools receive an A or B, the State Board of Education shall increase the endpoints of the ranges listed in Subsections (1)(a) through (1)(e) by five percentage points, except the lower endpoint of the A range may not be greater than

90%.

- (3) The board shall lower a school's grade by one letter grade if:
 - (a) student participation in a statewide assessment is fewer than 95%; or
 - (b) the participation of nonproficient students as determined by prior year test scores is fewer than 95%.

Amended by Chapter 403, 2014 General Session

53A-1-1111. Students with disabilities.

- (1) In implementing the school grading system, the State Board of Education shall provide for the inclusion of the test scores of a student with a disability.
- (2) Test scores on an alternative assessment administered to a student with a disability may substitute for a statewide assessment as defined in Section 53A-1-1102.

Enacted by Chapter 417, 2011 General Session

53A-1-1112. Reporting.

- (1) For the 2012-13 school year and thereafter, the State Board of Education, in collaboration with school districts and charter schools, shall annually develop a school report card and a personal student achievement report for each public school student to be delivered to parents of students in public schools.
- (2) The school report card shall include:
 - (a) the school's grade;
 - (b) the percentage of the maximum number of points that may be earned; and
 - (c) information indicating the school's performance on the various criteria upon which the grade is based.
- (3) The personal student achievement report shall include:
 - (a) information on a student's level of proficiency as measured by a statewide assessment; and
 - (b) a comparison of a student's expected learning growth and actual learning growth in a subject as measured by a statewide assessment.
- (4) A school report card and personal student achievement report shall be delivered to the parent or guardian of each student either electronically or by mail.
- (5) On or before September 1, the State Board of Education shall annually publish, on the State Board of Education's website, a report card for each school with the information required in Subsection (2).
- (6) On or before September 1, a school district shall annually publish on the school district's website, and a school's website, a school report card with the grade for the prior school year, together with the current school improvement plan established in accordance with Section 53A-1a-108.5.
- (7) On or before September 1, a charter school shall annually publish on the charter school's website a school report card with the grade for the prior school year.

Amended by Chapter 478, 2013 General Session

53A-1-1113. Rules.

The State Board of Education shall make rules, as necessary, to implement a school grading system in accordance with this part.

Enacted by Chapter 417, 2011 General Session

53A-1-1114. Exceptions applicable to determining school grades for the 2013-14 school year.

(1) Notwithstanding the requirements of Subsection 53A-1-1102(7), Subsection 53A-1-1103(4), Section 53A-1-1107.5, Subsection 53A-1-1110(1), and Subsections 53A-1-1112(5) through (7), for the purposes of determining school grades for the 2013-14 school year, when schools transition to a new assessment system:

(a) the State Board of Education is not required to create an alignment mapping of scale scores between assessments administered in the 2012-13 school year and those administered in the 2013-14 school year;

(b) the State Board of Education shall determine, by rule:

(i) how to measure growth of a school's students on statewide assessments of language arts, mathematics, and science achievement; and

(ii) a standard for sufficient growth;

(c) the State Board of Education may, by rule, adjust the percentage of the maximum number of points required to earn A through F letter grades; and

(d) the State Board of Education, school districts, and charter schools shall publish on their websites school grades for the 2013-14 school year on or before December 15, 2014.

(2) (a) Before the State Board of Education adopts a rule pursuant to Subsection (1)(c), the board shall submit one or more proposals to the Executive Appropriations Committee to adjust the maximum number of points required to earn A through F letter grades for the 2013-14 school year.

(b) For each proposal submitted to the Executive Appropriations Committee, the board shall model the projected distribution of schools earning each letter grade.

(c) The Executive Appropriations Committee may:

(i) recommend that the board adopt a proposal to adjust the maximum number of points required to earn A through F letter grades for the 2013-14 school year;

(ii) recommend that the board modify a proposal to adjust the maximum number of points required to earn A through F letter grades for the 2013-14 school year; or

(iii) recommend that no adjustment be made to the maximum number of points required to earn A through F letter grades for the 2013-14 school year.

Enacted by Chapter 403, 2014 General Session

53A-1a-101. Short title.

This chapter is known as the "Utah Strategic Planning Act for Educational Excellence."

Enacted by Chapter 47, 1992 General Session

53A-1a-103. Public education's vision and mission.

- (1) The Legislature envisions an educated citizenry that encompasses the following foundational principles:
 - (a) citizen participation in civic and political affairs;
 - (b) economic prosperity for the state by graduating students who are college and career ready;
 - (c) strong moral and social values; and
 - (d) loyalty and commitment to constitutional government.
- (2) The Legislature recognizes that public education's mission is to assure Utah the best educated citizenry in the world and each individual the training to succeed in a global society by providing students with:
 - (a) learning and occupational skills;
 - (b) character development;
 - (c) literacy and numeracy;
 - (d) high quality instruction;
 - (e) curriculum with high standards and relevance; and
 - (f) effective assessment to inform high quality instruction and accountability.
- (3) The Legislature:
 - (a) recognizes that parents or guardians are a child's first teachers and are responsible for the education of their children;
 - (b) encourages family engagement and adequate preparation so that students enter the public education system ready to learn; and
 - (c) intends that the mission detailed in Subsection (2) be carried out through a responsive educational system that guarantees local school communities autonomy, flexibility, and client choice, while holding them accountable for results.
- (4) This section will be applied consistent with Section 53A-13-109.

Amended by Chapter 123, 2012 General Session

53A-1a-104. Characteristics of public education system.

The Legislature shall assist in maintaining a public education system that has the following characteristics:

- (1) assumes that all students have the ability to learn and that each student departing the system will be prepared to achieve success in productive employment, further education, or both;
- (2) provides a personalized education plan or personalized education occupation plan for each student, which involves the student, the student's parent or guardian, and school personnel in establishing the plan;
- (3) provides students with the knowledge and skills to take responsibility for their decisions and to make appropriate choices;
- (4) provides opportunities for students to exhibit the capacity to learn, think, reason, and work effectively, individually and in groups;
- (5) offers a world-class core curriculum that enables students to successfully compete in a global society, and to succeed as citizens of a constitutional republic;
- (6) incorporates an information retrieval system that provides students, parents, and educators with reliable, useful, and timely data on the progress of each student;
- (7) attracts, prepares, inducts, and retains excellent teachers for every

classroom in large part through collaborative efforts among the State Board of Education, the State Board of Regents, and school districts, provides effective ongoing professional development opportunities for teachers to improve their teaching skills, and provides recognition, rewards, and compensation for their excellence;

(8) empowers each school district and public school to create its own vision and plan to achieve results consistent with the objectives outlined in this chapter;

(9) uses technology to improve teaching and learning processes and for the delivery of educational services;

(10) promotes ongoing research and development projects at the district and the school level that are directed at improving or enhancing public education;

(11) offers a public school choice program, which gives students and their parents options to best meet the student's personalized education needs;

(12) emphasizes the involvement of educators, parents, business partnerships, and the community at large in the educational process by allowing them to be involved in establishing and implementing educational goals and participating in decision-making at the school site; and

(13) emphasizes competency-based standards and progress-based assessments, including tracking and measurement systems.

Amended by Chapter 315, 2003 General Session

53A-1a-105. Parental participation in educational process -- Employer support.

(1) The Legislature recognizes the importance of parental participation in the educational process in order for students to achieve and maintain high levels of performance.

(2) It is, therefore, the policy of the state to:

(a) encourage parents to provide a home environment that values education and send their children to school prepared to learn;

(b) rely upon school districts and schools to provide opportunities for parents of students to be involved in establishing and implementing educational goals for their respective schools and students; and

(c) expect employers to recognize the need for parents and members of the community to participate in the public education system in order to help students achieve and maintain excellence.

(3) (a) Each local school board shall adopt a policy on parental involvement in the schools of the district.

(b) The board shall design its policy to build consistent and effective communication among parents, teachers, and administrators.

(c) The policy shall provide parents with the opportunity to be actively involved in their children's education and to be informed of:

(i) the importance of the involvement of parents in directly affecting the success of their children's educational efforts; and

(ii) groups and organizations that may provide instruction and training to parents to help improve their children's academic success and support their academic efforts.

Amended by Chapter 59, 2000 General Session

53A-1a-105.5. Parental permission required for specified in-home programs -- Exceptions.

(1) The State Board of Education, local school boards, school districts, and public schools are prohibited from requiring infant or preschool in-home literacy or other educational or parenting programs without obtaining parental permission in each individual case.

(2) This section does not prohibit the Division of Child and Family Services, within the Department of Human Services, from providing or arranging for family preservation or other statutorily provided services in accordance with Title 62A, Chapter 4a, or any other in-home services that have been court ordered, pursuant to Title 62A, Chapter 4a, or Title 78A, Chapter 6, Juvenile court Act of 1996.

Amended by Chapter 3, 2008 General Session

53A-1a-106. School district and individual school powers -- Student education/occupation plan (SEOP) definition.

(1) In order to acquire and develop the characteristics listed in Section 53A-1a-104, each school district and each public school within its respective district shall implement a comprehensive system of accountability in which students advance through public schools by demonstrating competency in required skills and mastery of required knowledge through the use of diverse assessment instruments such as authentic and criterion referenced tests, projects, and portfolios.

(2) (a) Each school district and public school shall:

(i) develop and implement programs integrating technology into the curriculum, instruction, and student assessment;

(ii) provide for teacher and parent involvement in policymaking at the school site;

(iii) implement a public school choice program to give parents, students, and teachers greater flexibility in designing and choosing among programs with different focuses through schools within the same district and other districts, subject to space availability, demographics, and legal and performance criteria;

(iv) establish strategic planning at both the district and school level and site-based decision making programs at the school level;

(v) provide opportunities for each student to acquire and develop academic and occupational knowledge, skills, and abilities;

(vi) participate in ongoing research and development projects primarily at the school level aimed at improving the quality of education within the system; and

(vii) involve business and industry in the education process through the establishment of partnerships with the business community at the district and school level.

(b) (i) As used in this title, "student education/occupation plan" or "SEOP" means a plan developed by a student and the student's parent or guardian, in consultation with school counselors, teachers, and administrators that:

(A) is initiated at the beginning of grade 7;

(B) identifies a student's skills and objectives;

- (C) maps out a strategy to guide a student's course selection; and
- (D) links a student to post-secondary options, including higher education and careers.
- (ii) Each local school board, in consultation with school personnel, parents, and school community councils or similar entities shall establish policies to provide for the effective implementation of a personalized student education plan (SEP) or student education/occupation plan (SEOP) for each student at the school site.
- (iii) The policies shall include guidelines and expectations for:
 - (A) recognizing the student's accomplishments, strengths, and progress towards meeting student achievement standards as defined in U-PASS;
 - (B) planning, monitoring, and managing education and career development; and
 - (C) involving students, parents, and school personnel in preparing and implementing SEPs and SEOPs.
- (iv) A parent may request conferences with school personnel in addition to SEP or SEOP conferences established by local school board policy.
- (v) Time spent during the school day to implement SEPs and SEOPs is considered part of the school term referred to in Subsection 53A-17a-103(4).
- (3) A school district or public school may submit proposals to modify or waive rules or policies of a supervisory authority within the public education system in order to acquire or develop the characteristics listed in Section 53A-1a-104.
- (4) (a) Each school district and public school shall make an annual report to its patrons on its activities under this section.
- (b) The reporting process shall involve participation from teachers, parents, and the community at large in determining how well the district or school is performing.

Amended by Chapter 315, 2012 General Session

53A-1a-107. State Board of Education assistance to districts and schools.

In order to assist school districts and individual schools in acquiring and maintaining the characteristics set forth in Section 53A-1a-104, the State Board of Education shall:

- (1) provide the framework for an education system, including core competencies and their assessment, in which school districts and public schools permit students to advance by demonstrating competency in subject matter and mastery of skills;
- (2) develop and disseminate a state model curriculum, structured to incorporate the concepts of quality versus quantity, depth versus breadth, subject integration and application, applied thinking skills, character development, and a global prospective, which districts and schools may use to assist teachers in helping students acquire the competencies and skills required to advance through the public education system, and periodically review and, if appropriate, revise the curriculum;
- (3) conduct a statewide public awareness program on competency-based educational systems;
- (4) compile and publish, for the state as a whole, a set of educational performance indicators describing trends in student performance;
- (5) promote a public education climate of high expectations and academic excellence;

(6) disseminate successful site-based decision-making models to districts and schools and provide teacher professional development opportunities and evaluation programs for site-based plans consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b);

(7) provide a mechanism for widespread dissemination of information about strategic planning for public education, including involvement of business and industry in the education process, in order to ensure the understanding and support of all the individuals and groups concerned with the mission of public education as outlined in Section 53A-1a-103;

(8) provide for a research and development clearing house at the state level to receive and share with school districts and public schools information on effective and innovative practices and programs in education;

(9) help school districts develop and implement guidelines, strategies, and professional development programs for administrators and teachers consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b) focused on improving interaction with parents and promoting greater parental involvement in the public schools; and

(10) in concert with the State Board of Regents and the state's colleges of education review and revise teacher licensing requirements to be consistent with teacher preparation for participation in personalized education programs within the public schools.

Amended by Chapter 221, 2003 General Session

53A-1a-108. School community councils -- Duties -- Composition -- Election procedures and selection of members.

(1) As used in this section:

(a) "Educator" has the meaning defined in Section 53A-6-103.

(b) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(c) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(d) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53A-16-101.5.

(2) Each public school, in consultation with its local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and

guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution

Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53A-1a-108.5;

(ii) create the School LAND Trust Program in accordance with Section 53A-16-101.5;

(iii) assist in the creation and implementation of a professional development plan; and

(iv) advise and make recommendations to school and school district administrators and the local school board regarding the school and its programs, school district programs, a child access routing plan in accordance with Section 53A-3-402, and other issues relating to the community environment for students.

(b) In addition to the duties specified in Subsection (3)(a), a school community council for an elementary school shall create a reading achievement plan in accordance with Section 53A-1-606.5.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or

guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) Only parents or guardians of students attending the school may vote at the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) The principal of the school, or the principal's designee, shall provide notice of the available community council positions to school employees, parents, and guardians at least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection

(5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53A-1a-108.1.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on the following statutes governing school community councils:

(i) Section 53A-1a-108;

(ii) Section 53A-1a-108.1;

(iii) Section 53A-1a-108.5; and

(iv) Section 53A-16-101.5.

Amended by Chapter 332, 2014 General Session
Amended by Chapter 346, 2014 General Session

53A-1a-108.1. School community councils -- Open and public meeting requirements.

- (1) A school community council established under Section 53A-1a-108:
 - (a) shall conduct deliberations and take action openly as provided in this section; and
 - (b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.
- (2) As required by Section 53A-1a-108, a local school board shall provide training for the members of a school community council on this section.
- (3) (a) A meeting of a school community council is open to the public.
(b) A school community council may not close any portion of a meeting.
- (4) A school community council shall, at least one week prior to a meeting, post the following information on the school's website:
 - (a) a notice of the meeting, time, and place;
 - (b) an agenda for the meeting; and
 - (c) the minutes of the previous meeting.
- (5) (a) On or before October 20, a principal shall post the following information on the school website and in the school office:
 - (i) the proposed school community council meeting schedule for the year;
 - (ii) a telephone number or email address, or both, where each school community council member can be reached directly; and
 - (iii) a summary of the annual report required under Section 53A-16-101.5 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's improvement plan.
 - (b) (i) A school community council shall identify and use methods of providing the information listed in Subsection (5)(a) to a parent or guardian who does not have Internet access.
 - (ii) Money allocated to a school under the School LAND Trust Program created in Section 53A-16-101.5 may not be used to provide information as required by Subsection (5)(b)(i).
- (6) (a) The notice requirement of Subsection (4) may be disregarded if:
 - (i) because of unforeseen circumstances it is necessary for a school community council to hold an emergency meeting to consider matters of an emergency or urgent nature; and
 - (ii) the school community council gives the best notice practicable of:
 - (A) the time and place of the emergency meeting; and
 - (B) the topics to be considered at the emergency meeting.
 - (b) An emergency meeting of a school community council may not be held unless:
 - (i) an attempt has been made to notify all the members of the school community council; and
 - (ii) a majority of the members of the school community council approve the meeting.

(7) (a) An agenda required under Subsection (4)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.

(b) Each topic described in Subsection (7)(a) shall be listed under an agenda item on the meeting agenda.

(c) A school community council may not take final action on a topic in a meeting unless the topic is:

- (i) listed under an agenda item as required by Subsection (7)(b); and
- (ii) included with the advance public notice required by Subsection (4).

(8) (a) Written minutes shall be kept of a school community council meeting.

(b) Written minutes of a school community council meeting shall include:

- (i) the date, time, and place of the meeting;
- (ii) the names of members present and absent;
- (iii) a brief statement of the matters proposed, discussed, or decided;
- (iv) a record, by individual member, of each vote taken;
- (v) the name of each person who:

(A) is not a member of the school community council; and

(B) after being recognized by the chair, provided testimony or comments to the school community council;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (8)(b)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.

(c) The written minutes of a school community council meeting:

(i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) shall be retained for three years.

(9) (a) As used in this Subsection (9), "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

- (i) parliamentary order and procedure;
- (ii) ethical behavior; and
- (iii) civil discourse.

(b) A school community council shall:

(i) adopt rules of order and procedure to govern a public meeting of the school community council;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (9)(b)(i); and

(iii) make the rules of order and procedure described in Subsection (9)(b)(i) available to the public:

(A) at each public meeting of the school community council; and

(B) on the school's website.

Amended by Chapter 332, 2014 General Session

53A-1a-108.5. School improvement plan.

(1) (a) Each school community council shall annually evaluate the school's U-PASS test results and use the evaluations in developing a school improvement plan.

(b) In evaluating U-PASS test results and developing a school improvement plan, a school community council may not have access to data that reveal the identity of students.

(2) Each school improvement plan shall:

(a) identify the school's most critical academic needs;

(b) recommend a course of action to meet the identified needs;

(c) list any programs, practices, materials, or equipment that the school will need to implement its action plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(d) describe how the school intends to enhance or improve academic achievement, including how financial resources available to the school, such as School LAND Trust Program money received under Section 53A-16-101.5 and state and federal grants, will be used to enhance or improve academic achievement.

(3) The school improvement plan shall focus on the school's most critical academic needs but may include other actions to enhance or improve academic achievement and community environment for students.

(4) The school principal shall make available to the school community council the school budget and other data needed to develop the school improvement plan.

(5) The school improvement plan shall be subject to the approval of the local school board of the school district in which the school is located.

(6) A school community council may develop a multiyear school improvement plan, but the plan must be presented to and approved annually by the local school board.

(7) Each school shall:

(a) implement the school improvement plan as developed by the school community council and approved by the local school board;

(b) provide ongoing support for the council's plan; and

(c) meet local school board reporting requirements regarding performance and accountability.

Enacted by Chapter 324, 2002 General Session

53A-1a-110. Computer program for students with autism and other special needs.

(1) As used in this section, "board" means the State Board of Education.

(2) To improve social skills and student achievement for students with autism and other special needs in pre-school through grade 2, the board shall contract with a provider, selected through a request for proposals process, to provide computer software programs and activity manuals.

(3) In evaluating proposals submitted under Subsection (2), the board shall:

(a) ensure that the board's evaluation criteria weighs heavily the proposer's ability and experience to provide computer software programs and activity manuals to improve social skills and student achievement for students with autism and other special needs in pre-school through grade 2;

(b) consider, in evaluating the proposer's ability and experience, any quantitative and evaluative results from field testing, state tests, and other standardized

achievement tests;

(c) ensure that the board's evaluation criteria weighs heavily the proposer's ability to:

(i) collect data from each computer using the computer software, regardless of where the computer is located;

(ii) provide students access to the proposer's program from any computer with internet access;

(iii) enable reporting of student progress to administrators, teachers, parents, and other facilitators; and

(iv) record a student's progress in the computer software; and

(d) consider the extent to which the computer software program uses engaging animation to teach students.

(4) The board shall provide the computer software programs and activity manuals procured under this section to school districts and charter schools that demonstrate a commitment by the school principal and staff to implement the computer software programs and activity manuals as prescribed by the provider.

Enacted by Chapter 412, 2012 General Session

53A-1a-501. Short title.

This part is known as "The Utah Charter Schools Act."

Enacted by Chapter 231, 1998 General Session

53A-1a-501.3. Definitions.

As used in this part:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

(a) cash;

(b) stock or other investments;

(c) real property;

(d) equipment and supplies;

(e) an ownership interest;

(f) a license;

(g) a cause of action; and

(h) any similar property.

(2) "Board of trustees of a higher education institution" or "board of trustees" means:

(a) the board of trustees of:

(i) the University of Utah;

(ii) Utah State University;

(iii) Weber State University;

(iv) Southern Utah University;

(v) Snow College;

(vi) Dixie State University;

(vii) Utah Valley University; or

- (viii) Salt Lake Community College; or
- (b) the campus board of directors of a college campus within the Utah College of Applied Technology.
- (3) "Charter agreement" or "charter" means an agreement made in accordance with Section 53A-1a-508, that authorizes the operation of a charter school.
- (4) "Charter school authorizer" or "authorizer" means the State Charter School Board, local school board, or board of trustees of a higher education institution that authorizes the establishment of a charter school.
- (5) "Governing board" means the board that operates a charter school.

Amended by Chapter 363, 2014 General Session

53A-1a-501.5. State Charter School Board created.

(1) As used in this section, "organization that represents Utah's charter schools" means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.

(2) (a) The State Charter School Board is created consisting of the following members appointed by the governor:

- (i) two members who have expertise in finance or small business management;
- (ii) three members who:

(A) are nominated by an organization that represents Utah's charter schools;
and

(B) have expertise or experience in developing or administering a charter school; and

- (iii) two members who are nominated by the State Board of Education.

(b) Each appointee shall have demonstrated dedication to the purposes of charter schools as outlined in Section 53A-1a-503.

(c) At least two candidates shall be nominated for each appointment made under Subsection (2)(a)(ii) or (iii).

(d) The governor may seek nominations for a prospective appointment under Subsection (2)(a)(ii) from one or more organizations that represent Utah's charter schools.

(3) (a) State Charter School Board members shall serve four-year terms.

(b) If a vacancy occurs, the governor shall appoint a replacement for the unexpired term.

(4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.

(5) (a) The State Charter School Board shall annually elect a chair from its membership.

(b) Four members of the board shall constitute a quorum.

(c) Meetings may be called by the chair or upon request of three members of the board.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 429, 2011 General Session

53A-1a-501.6. Power and duties of State Charter School Board.

- (1) The State Charter School Board shall:
 - (a) authorize and promote the establishment of charter schools, subject to the provisions in this part;
 - (b) annually review and evaluate the performance of charter schools authorized by the State Charter School Board and hold the schools accountable for their performance;
 - (c) monitor charter schools authorized by the State Charter School Board for compliance with federal and state laws, rules, and regulations;
 - (d) provide technical support to charter schools and persons seeking to establish charter schools by:
 - (i) identifying and promoting successful charter school models;
 - (ii) facilitating the application and approval process for charter school authorization;
 - (iii) directing charter schools and persons seeking to establish charter schools to sources of private funding and support;
 - (iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; and
 - (v) assisting charter schools to understand and carry out their charter obligations;
 - (e) provide technical support, as requested, to a charter school authorizer relating to charter schools;
 - (f) make recommendations on legislation and rules pertaining to charter schools to the Legislature and State Board of Education, respectively; and
 - (g) make recommendations to the State Board of Education on the funding of charter schools.
- (2) The State Charter School Board may:
 - (a) contract;
 - (b) sue and be sued; and
 - (c) (i) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and
 - (ii) charge fees for the provision of services or functions.

Amended by Chapter 363, 2014 General Session

53A-1a-501.7. State Charter School Board -- Staff director -- Facilities.

- (1) (a) The State Charter School Board, with the consent of the superintendent of public instruction, shall appoint a staff director for the State Charter School Board.
- (b) The State Charter School Board shall have authority to remove the staff

director with the consent of the superintendent of public instruction.

(c) The position of staff director is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The superintendent of public instruction shall provide space for staff of the State Charter School Board in facilities occupied by the Utah State Office of Education, with costs charged for the facilities equal to those charged other sections and divisions within the Utah State Office of Education and Utah State Office of Rehabilitation.

Amended by Chapter 319, 2008 General Session

53A-1a-501.9. State Charter School Board to request applications for certain types of charter schools.

(1) To meet the unique learning styles and needs of students, the State Charter School Board shall seek to expand the types of instructional methods and programs offered by schools, as provided in this section.

(2) (a) The State Charter School Board shall request individuals, groups of individuals, or not-for-profit legal entities to submit an application to the State Charter School Board to establish a charter school that employs new and creative methods to meet the unique learning styles and needs of students, such as:

- (i) a military charter school;
- (ii) a charter school whose mission is to enhance learning opportunities for students at risk of academic failure;
- (iii) a charter school whose focus is career and technical education;
- (iv) a single gender charter school; or
- (v) a charter school with an international focus that provides opportunities for the exchange of students or teachers.

(b) In addition to a charter school identified in Subsection (2)(a), the State Charter School Board shall request applications for other types of charter schools that meet the unique learning styles and needs of students.

(3) The State Charter School Board shall publicize a request for applications to establish a charter school specified in Subsection (2).

(4) A charter school application submitted pursuant to Subsection (2) shall be subject to the application and approval procedures specified in Section 53A-1a-505.

(5) The State Charter School Board and the State Board of Education may approve one or more applications for each charter school specified in Subsection (2), subject to the Legislature appropriating funds for, or authorizing, an increase in charter school enrollment capacity as provided in Section 53A-1a-502.5.

(6) The State Board of Education shall submit a request to the Legislature to appropriate funds for, or authorize, the enrollment of students in charter schools tentatively approved under this section.

Enacted by Chapter 376, 2013 General Session

53A-1a-502.5. Approval of increase in charter school enrollment capacity.

(1) For the purposes of this section:

(a) "High growth area" means an area of the state where school enrollment is

significantly increasing or projected to significantly increase.

(b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.

(2) The State Board of Education may approve an increase in charter school enrollment capacity in the 2012-13 school year or thereafter subject to the Legislature:

(a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or

(b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.

(3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53A-1a-501.9.

(4) (a) A charter school may annually submit a request to the State Board of Education for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

(b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.

(c) The State Board of Education shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Section 53A-1a-513 to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

(d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.

(5) (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the State Board of Education, the State Board of Education shall prioritize the tentatively approved schools and expansions based on approved funds.

(b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.

(6) (a) Except as provided in Subsection (5)(b) or (6)(b), in approving an increase in charter school enrollment capacity for new charter schools and expanding charter schools, the State Board of Education shall give:

(i) high priority to approving a new charter school or a charter school expansion in a high growth area; and

(ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.

(b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection (6)(a)(i).

Amended by Chapter 406, 2014 General Session

53A-1a-503. Purpose.

The purposes of the state's charter schools as a whole are to:

- (1) continue to improve student learning;
- (2) encourage the use of different and innovative teaching methods;
- (3) create new professional opportunities for educators that will allow them to actively participate in designing and implementing the learning program at the school;
- (4) increase choice of learning opportunities for students;
- (5) establish new models of public schools and a new form of accountability for schools that emphasizes the measurement of learning outcomes and the creation of innovative measurement tools;
- (6) provide opportunities for greater parental involvement in management decisions at the school level; and
- (7) expand public school choice in areas where schools have been identified for school improvement, corrective action, or restructuring under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.

Amended by Chapter 319, 2008 General Session

53A-1a-503.5. Status of charter schools.

- (1) Charter schools are:
 - (a) considered to be public schools within the state's public education system;
 - (b) subject to Subsection 53A-1-401(3); and
 - (c) governed by independent boards and held accountable to a legally binding written contractual agreement.
- (2) A charter school may be established by:
 - (a) creating a new school; or
 - (b) converting an existing public school to charter status.
- (3) A parochial school or home school is not eligible for charter school status.

Amended by Chapter 363, 2014 General Session

53A-1a-504. Charter school application -- Applicants -- Contents -- Expansion.

- (1) (a) An application to establish a charter school may be submitted by:
 - (i) an individual;
 - (ii) a group of individuals; or
 - (iii) a nonprofit legal entity organized under Utah law.
- (b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.
- (2) A charter school application shall include:
 - (a) the purpose and mission of the school;
 - (b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;
 - (c) a description of the governance structure of the school, including:
 - (i) a list of the governing board members that describes the qualifications of

each member; and

(ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;

(d) a description of the target population of the school that includes:

(i) the projected maximum number of students the school proposes to enroll;

(ii) the projected school enrollment for each of the first three years of school operation; and

(iii) the ages or grade levels the school proposes to serve;

(e) academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) require completion of a criminal background check for teachers;

(ii) require employee evaluations; and

(iii) address employment of relatives within the charter school;

(g) a description of how the charter school will provide, as required by state and federal law, special education and related services;

(h) for a public school converting to charter status, arrangements for:

(i) students who choose not to continue attending the charter school; and

(ii) teachers who choose not to continue teaching at the charter school;

(i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:

(i) whether the charter school intends to lease or purchase the charter school's facilities; and

(ii) financing arrangements;

(j) a market analysis of the community the school plans to serve;

(k) a capital facility plan;

(l) a business plan;

(m) other major issues involving the establishment and operation of the charter school; and

(n) the signatures of the governing board members of the charter school.

(3) A charter school authorizer may require a charter school application to include:

(a) the charter school's proposed:

(i) curriculum;

(ii) instructional program; or

(iii) delivery methods;

(b) a method for assessing whether students are reaching academic goals, including, at a minimum, participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6, Achievement Tests;

(c) a proposed calendar;

(d) sample policies;

(e) a description of opportunities for parental involvement;

(f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or

(g) other information that demonstrates an applicant's ability to establish and operate a charter school.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, the State Board of Education shall make rules regarding the expansion of a charter school, including establishing a satellite campus, that provide:

- (a) requirements for a charter school to apply and qualify for expansion; and
- (b) procedures and deadlines for the application process.

Repealed and Re-enacted by Chapter 363, 2014 General Session

53A-1a-505. Charter schools authorized by the State Charter School Board -- Application process -- Prohibited bases of application denial.

(1) (a) An applicant seeking authorization of a charter school from the State Charter School Board shall provide a copy of the application to the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the State Charter School Board.

(b) The local board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board prior to its acting on the application.

(c) The State Charter School Board shall give due consideration to suggestions or recommendations made by the local school board under Subsection (1)(b).

(d) The State Charter School Board shall review and, by majority vote, either approve or deny the application.

(e) The State Board of Education shall, by majority vote, within 60 days after action by the State Charter School Board under Subsection (1)(d):

(i) approve or deny an application approved by the State Charter School Board; or

(ii) hear an appeal, if any, of an application denied by the State Charter School Board.

(f) The State Board of Education's action under Subsection (1)(d) is final action subject to judicial review.

(g) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(2) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by the State Charter School Board.

(3) After approval of a charter school application and in accordance with Section 53A-1a-508, the applicant and the State Charter School Board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(4) The State Charter School Board shall, in accordance with State Board of Education rules, establish and make public the State Charter School Board's:

- (a) application requirements, in accordance with Section 53A-1a-504;
- (b) application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 363, 2014 General Session

53A-1a-506. Eligible students.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53A-1a-506.5.

(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, students shall be selected on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

(a) a child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

(c) a sibling of a student presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) students articulating between charter schools offering similar programs that are governed by the same governing board;

(f) students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; or

(g) students who reside within:

(i) the school district in which the charter school is located;

(ii) the municipality in which the charter school is located; or

(iii) a two-mile radius of the charter school.

(5) (a) Except as provided in Subsection (5)(b), a charter school that is approved by the State Board of Education after May 13, 2014, and is located in a high growth area shall give an enrollment preference to students who reside within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53A-1a-502.5(6)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for

English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight its lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

- (a) low-income students;
- (b) students with disabilities;
- (c) English language learners;
- (d) migrant students;
- (e) neglected or delinquent students; and
- (f) homeless students.

(9) A charter school may not discriminate in its admission policies or practices on the same basis as other public schools may not discriminate in their admission policies and practices.

Amended by Chapter 291, 2014 General Session

Amended by Chapter 363, 2014 General Session

Amended by Chapter 406, 2014 General Session

53A-1a-506.5. Charter school students -- Admissions procedures -- Transfers.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Nonresident school district" means a school district other than a student's school district of residence.

(c) "School district of residence" means a student's school district of residence as determined under Section 53A-2-201.

(d) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.

(2) (a) The State School Board, in consultation with the State Charter School Board, shall make rules describing procedures for students to follow in applying for entry into, or exiting, a charter school.

(b) The rules under Subsection (2)(a) shall, at a minimum, provide for:

(i) posting on a charter school's Internet website, beginning no later than 60 days before the school's initial period of applications:

(A) procedures for applying for admission to the charter school;

(B) the school's opening date, if the school has not yet opened, or the school calendar; and

(C) information on how a student may transfer from a charter school to another charter school or a district school;

(ii) written notification to a student's parent or legal guardian of an offer of admission;

(iii) written acceptance of an offer of admission by a student's parent or legal guardian;

(iv) written notification to a student's current charter school or school district of

residence upon acceptance of the student for enrollment in a charter school; and

(v) the admission of students at:

(A) any time to protect the health or safety of a student; or

(B) times other than those permitted under standard policies if there are other conditions of special need that warrant consideration.

(c) The rules under Subsection (2)(a) shall prevent the parent of a student who is enrolled in a charter school or who has accepted an offer of admission to a charter school from duplicating enrollment for the student in another charter school or a school district without following the withdrawal procedures described in Subsection (3).

(3) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in another charter school or a school district by submitting to the charter school:

(a) on or before June 30, a notice of intent to enroll the student in the student's school of residence for the following school year;

(b) after June 30, a letter of acceptance for enrollment in the student's school district of residence for the following year;

(c) a letter of acceptance for enrollment in the student's school district of residence in the current school year;

(d) a letter of acceptance for enrollment in a nonresident school district; or

(e) a letter of acceptance for enrollment in a charter school.

(4) (a) A charter school shall report to a school district, by the last business day of each month the aggregate number of new students, sorted by their school of residence and grade level, who have accepted enrollment in the charter school for the following school year.

(b) A school district shall report to a charter school, by the last business day of each month, the aggregate number of students enrolled in the charter school who have accepted enrollment in the school district in the following school year, sorted by grade level.

(5) When a vacancy occurs because a student has withdrawn from a charter school, the charter school may immediately enroll a new student from its list of applicants.

(6) Unless provisions have previously been made for enrollment in another school, a charter school releasing a student from enrollment during a school year shall immediately notify the school district of residence, which shall enroll the student in the school district of residence and take additional steps as may be necessary to ensure compliance with laws governing school attendance.

(7) (a) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in the student's school of residence in the following school year if an application of admission is submitted to the school district of residence by June 30.

(b) If the parent of a student enrolled in a charter school submits an application of admission to the student's school district of residence after June 30 for the student's enrollment in the school district of residence in the following school year, or an application of admission is submitted for enrollment during the current school year, the student may enroll in a school of the school district of residence that has adequate capacity in:

- (i) the student's grade level, if the student is an elementary school student; or
- (ii) the core classes that the student needs to take, if the student is a secondary school student.

(c) State Board of Education rules made under Subsection (2)(a) shall specify how adequate capacity in a grade level or core classes is determined for the purposes of Subsection (7)(b).

(8) Notwithstanding Subsection (7), a school district may enroll a student at any time to protect the health and safety of the student.

(9) A school district or charter school may charge secondary students a one-time \$5 processing fee, to be paid at the time of application.

Amended by Chapter 363, 2014 General Session

53A-1a-507. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall make the same annual reports required of other public schools under this title, including an annual financial audit report.

(b) A charter school shall file its annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

- (i) the charter school's annual financial audit report;

- (ii) a report submitted by the charter school as required by statute; or

- (iii) a report submitted by the charter school as required by its charter.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53A-1a-503 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53A-1a-515, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance.

(9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license has been suspended or revoked by the State Board of Education under Section 53A-6-501.

Amended by Chapter 363, 2014 General Session

53A-1a-507.1. Charter school innovative practices -- Report to State Charter School Board.

Prior to July 31 of each year, a charter school may identify and report to the State Charter School Board its innovative practices which fulfill the purposes of charter schools as outlined in Section 53A-1a-503, including:

- (1) unique learning opportunities providing increased choice in education;
- (2) new public school models;
- (3) innovative teaching practices;
- (4) opportunities for educators to actively participate in the design and implementation of the learning program;
- (5) new forms of accountability emphasizing the measurement of learning outcomes and the creation of new measurement tools;
- (6) opportunities for greater parental involvement, including involvement in management decisions; and
- (7) the impact of the innovative practices on student achievement.

Enacted by Chapter 74, 2005 General Session

53A-1a-508. Charter agreement -- Content -- Modification.

- (1) A charter agreement:
 - (a) is a contract between the charter school applicant and the charter school authorizer;
 - (b) shall describe the rights and responsibilities of each party; and
 - (c) shall allow for the operation of the applicant's proposed charter school.
- (2) A charter agreement shall include:
 - (a) the name of:
 - (i) the charter school; and
 - (ii) the charter school applicant;
 - (b) the mission statement and purpose of the charter school;
 - (c) the charter school's opening date;
 - (d) the grade levels and number of students the charter school will serve;
 - (e) a description of the structure of the charter school's governing board, including:
 - (i) the number of board members;
 - (ii) how members of the board are appointed; and
 - (iii) board members' terms of office;
 - (f) assurances that:
 - (i) the governing board shall comply with:
 - (A) the charter school's bylaws;
 - (B) the charter school's articles of incorporation; and
 - (C) applicable federal law, state law, and State Board of Education rules;

(ii) the governing board will meet all reporting requirements described in Section 53A-1b-115; and

(iii) except as provided in Title 53A, Chapter 20b, Part 2, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;

(g) which administrative rules the State Board of Education will waive for the charter school;

(h) minimum financial standards for operating the charter school;

(i) minimum standards for student achievement; and

(j) signatures of the charter school authorizer and the charter school's governing board members.

(3) A charter agreement may not be modified except by mutual agreement between the charter school authorizer and the governing board of the charter school.

Repealed and Re-enacted by Chapter 363, 2014 General Session

53A-1a-509. Noncompliance -- Rulemaking.

(1) If a charter school is found to be out of compliance with the requirements of Section 53A-1a-507 or the school's charter, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53A-1a-510(4):

(a) the governing board of the charter school; and

(b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(2) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:

(a) subject to the requirements of Subsection (4), take one or more of the following actions:

(i) remove a charter school director or finance officer;

(ii) remove a governing board member; or

(iii) appoint an interim director or mentor to work with the charter school; or

(b) subject to the requirements of Section 53A-1a-510, terminate the school's charter.

(3) The costs of an interim director or mentor appointed pursuant to Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director or mentor is working.

(4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsections (2)(a)(i) through (iii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

(a) specifying the timeline for remedying deficiencies under Subsection (1); and

(b) ensuring the compliance of a charter school with its approved charter.

Amended by Chapter 363, 2014 General Session

53A-1a-510. Termination of a charter.

(1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter for any of the following reasons:

- (a) failure of the charter school to meet the requirements stated in the charter;
- (b) failure to meet generally accepted standards of fiscal management;
- (c) subject to Subsection (8), failure to make adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;
- (d) violation of requirements under this part or another law; or
- (e) other good cause shown.

(2) (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the governing board may request an informal hearing before the authorizer:

- (i) the governing board of the charter school; and
- (ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).

(c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the governing board of the charter school may appeal the decision to the State Board of Education.

(d) (i) The State Board of Education shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The State Board of Education's action is final action subject to judicial review.

(e) (i) If the authorizer proposes to terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

- (A) the governing board of the qualifying charter school; and
- (B) the Utah Charter School Finance Authority.

(ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter.

(3) An authorizer may not terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter

School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.

(6) If a charter is terminated during a school year, the following entities may apply to the charter school's authorizer to assume operation of the school:

- (a) the school district where the charter school is located;
- (b) the governing board of another charter school; or
- (c) a private management company.

(7) (a) If a charter is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 2, Part 2, District of Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

(8) Subject to the requirements of Subsection (3), an authorizer may terminate a charter pursuant to Subsection (1)(c) under the same circumstances that local educational agencies are required to implement alternative governance arrangements under 20 U.S.C. Sec. 6316.

Amended by Chapter 363, 2014 General Session

53A-1a-510.5. Charter school closure.

(1) If a charter school is closed for any reason, including the termination of a charter in accordance with Section 53A-1a-510 or the conversion of a charter school to a private school, the provisions of this section apply.

(2) (a) As soon as possible after the decision is made to close a charter school, notification of the decision, in writing, shall be provided by the charter school to:

- (i) its charter school authorizer;
- (ii) the State Charter School Board;
- (iii) the State Board of Education;
- (iv) parents of its students;
- (v) its creditors; and
- (vi) the school district in which the charter school is located and other charter schools located in that school district.

(b) The notification under Subsection (2)(a) shall include:

- (i) the proposed date of school closure;
- (ii) the school's plans to help students identify and transition into a new school;

and

(iii) contact information for the charter school during the transition.

(3) A closing charter school shall:

(a) present a school closure plan to its authorizer as soon as possible after the decision to close is made;

(b) designate a custodian for the protection of student files and school business records;

(c) maintain a base of operation throughout the charter school closing, including:

- (i) an office;
- (ii) hours of operation; and
- (iii) operational telephone service with voice messaging stating the hours of operation;
- (d) maintain insurance coverage and risk management coverage throughout the transition to closure and for a period following closure of the charter school as specified by the authorizer;
- (e) complete a financial audit immediately after the decision to close is made;
- (f) inventory all assets of the charter school;
- (g) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests; and
- (h) protect all school assets against theft, misappropriation, and deterioration.
- (4) (a) Any assets held subject to written conditions or limitations in accordance with Section 53A-1a-517 shall be disposed of in accordance with those conditions or limitations.
- (b) All liabilities and obligations of the closing charter school shall be paid and discharged or adequate provisions shall be made to discharge the liabilities and obligations to the extent of the closing school's assets.
- (c) (i) The remaining assets shall be returned to the closing charter school's authorizer.
- (ii) The authorizer may liquidate assets at fair market value or assign the assets to another public school.
- (5) To the extent possible, all leases, service agreements, and other contracts not necessary for the transition of the closing charter school should be terminated.
- (6) The closing charter school shall submit all documentation required by its authorizer, including documents to verify its compliance with procedural requirements as well as satisfaction of all financial issues.
- (7) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.
- (8) The State Board of Education may make rules that provide additional closure requirements upon charter schools or that specify elements of charter school closure plans.

Amended by Chapter 363, 2014 General Session

53A-1a-511. Waivers from state board rules -- Application of statutes and rules to charter schools.

- (1) A charter school shall operate in accordance with its charter and is subject to Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided in this part.
- (2) (a) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.
- (b) The state board may grant the waiver, unless:

(i) the waiver would cause the school district or the school to be in violation of state or federal law; or

(ii) the waiver would threaten the health, safety, or welfare of students in the district or at the school.

(c) If the State Board of Education denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.

(3) (a) Except as provided in Subsection (3)(b), State Board of Education rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(4) The following provisions of Title 53A, State System of Public Education, and rules adopted under those provisions, do not apply to a charter school:

(a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school community council and school improvement plan;

(b) Sections 53A-3-413 and 53A-3-414, pertaining to the use of school buildings as civic centers;

(c) Section 53A-3-420, requiring the use of activity disclosure statements;

(d) Section 53A-12-207, requiring notification of intent to dispose of textbooks;

(e) Section 53A-13-107, requiring annual presentations on adoption;

(f) Chapter 19, Part 1, Fiscal Procedures, pertaining to fiscal procedures of school districts and local school boards; and

(g) Section 53A-14-107, requiring an independent evaluation of instructional materials.

(5) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school shall be considered a local public procurement unit.

(6) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the State Board of Education for consideration.

(ii) The State Board of Education shall consider the recommendations of the State Charter School Board and respond within 60 days.

Amended by Chapter 347, 2012 General Session

53A-1a-512. Employees of charter schools.

(1) A charter school shall select its own employees.

(2) The school's governing board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this part.

(3) The following statutes governing public employees and officers do not apply to a charter school:

(a) Chapter 8a, Public Education Human Resource Management Act; and

(b) Title 52, Chapter 3, Prohibiting Employment of Relatives.

(4) (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the State Board of Education, shall employ teachers who:

(i) are licensed; or

(ii) on the basis of demonstrated competency, would qualify to teach under alternative certification or authorization programs.

(b) The school's governing board shall disclose the qualifications of its teachers to the parents of its students.

(5) State Board of Education rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.

(6) (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.

(b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the locally elected school board mutually agree.

(7) (a) A proposed or authorized charter school may elect to participate as an employer for retirement programs under:

(i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

(ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

(iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

(b) An election under this Subsection (7):

(i) shall be documented by a resolution adopted by the governing board of the charter school; and

(ii) applies to the charter school as the employer and to all employees of the charter school.

(c) The governing board of a charter school may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(8) A charter school may not revoke an election to participate made under Subsection (7).

(9) The governing board of a charter school shall ensure that, prior to the beginning of each school year, each of its employees signs a document acknowledging that the employee:

(a) has received:

(i) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or

(ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund; and

(b) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.

Amended by Chapter 363, 2014 General Session

53A-1a-512.5. Criminal background checks on school personnel.

The following individuals are required to submit to a criminal background check as provided in Section 53A-3-410:

- (1) an employee of a charter school;
- (2) a volunteer for a charter school who is given significant unsupervised access to a student in connection with the volunteer's assignment; or
- (3) a contract employee, as defined in Section 53A-3-410, who works at a charter school.

Repealed and Re-enacted by Chapter 362, 2010 General Session

53A-1a-513. Funding for charter schools.

(1) As used in this section:

(a) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.

(b) "District local property tax revenues" means the sum of a school district's revenue received from the following levies:

(i) (A) a voted levy imposed under Section 53A-17a-133;

(B) a board levy imposed under Section 53A-17a-134;

(C) a 10% of basic levy imposed under Section 53A-17a-145;

(D) a tort liability levy imposed under Section 63G-7-704;

(E) a capital outlay levy imposed under Section 53A-16-107; and

(F) a voted capital outlay levy imposed under Section 53A-16-110; or

(ii) (A) a voted local levy imposed under Section 53A-17a-133;

(B) a board local levy imposed under Section 53A-17a-164, excluding revenues expended for:

(I) recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds;

(II) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(III) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy; and

(C) a capital local levy imposed under Section 53A-16-113.

(c) "District per pupil local revenues" means an amount equal to the following, using data from the most recently published school district annual financial reports and state superintendent's annual report:

- (i) district local property tax revenues; divided by
- (ii) the sum of:
 - (A) a school district's average daily membership; and
 - (B) the average daily membership of a school district's resident students who attend charter schools.

(d) "Resident student" means a student who is considered a resident of the school district under Title 53A, Chapter 2, Part 2, District of Residency.

(e) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(e)(i) by statewide school district average daily membership.

(2) (a) Charter schools shall receive funding as described in this section, except Subsections (3) through (8) do not apply to charter schools described in Subsection (2)(b).

(b) Charter schools authorized by local school boards that are converted from district schools or operate in district facilities without paying reasonable rent shall receive funding as prescribed in Section 53A-1a-515.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school shall receive state funds, as applicable, on the same basis as a school district receives funds.

(b) For the 2013-14 and 2014-15 school years, the number of weighted pupil units assigned to a charter school for the kindergarten and grades 1 through 12 programs of the Basic School Program shall be:

- (i) based on the higher of:
 - (A) October 1 enrollment in the current school year; or
 - (B) average daily membership in the prior school year plus growth as determined under Section 53A-17a-106; and
- (ii) weighted as provided in Subsection (3)(c).

(c) In distributing funds under Chapter 17a, Minimum School Program Act, to charter schools, charter school pupils shall be weighted, where applicable, as follows:

- (i) .55 for kindergarten pupils;
- (ii) .9 for pupils in grades 1 through 6;
- (iii) .99 for pupils in grades 7 through 8; and
- (iv) 1.2 for pupils in grades 9 through 12.

(4) (a) (i) A school district shall allocate a portion of school district revenues for each resident student of the school district who is enrolled in a charter school on October 1 equal to 25% of the lesser of:

- (A) district per pupil local revenues; or
 - (B) charter school students' average local revenues.
- (ii) Nothing in this Subsection (4)(a) affects the school bond guarantee program

established under Chapter 28, Utah School Bond Guaranty Act.

(b) The State Board of Education shall:

(i) deduct an amount equal to the allocation provided under Subsection (4)(a) from state funds the school district is authorized to receive under Chapter 17a, Minimum School Program Act; and

(ii) remit the money to the student's charter school.

(c) Notwithstanding the method used to transfer school district revenues to charter schools as provided in Subsection (4)(b), a school district may deduct the allocations to charter schools under this section from:

(i) unrestricted revenues available to the school district; or

(ii) the revenue sources listed in Subsection (1)(b) based on the portion of the allocations to charter schools attributed to each of the revenue sources listed in Subsection (1)(b).

(d) (i) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each student enrolled on October 1 to supplement the allocation of school district revenues under Subsection (4)(a).

(ii) Except as provided in Subsection (4)(d)(iii), the amount of money provided by the state for a charter school student shall be the sum of:

(A) charter school students' average local revenues minus the allocation of school district revenues under Subsection (4)(a); and

(B) statewide average debt service revenues.

(iii) If the total of a school district's allocation for a charter school student under Subsection (4)(a) and the amount provided by the state under Subsection (4)(d)(ii) is less than \$1427, the state shall provide an additional supplement so that a charter school receives at least \$1427 per student under this Subsection (4).

(iv) (A) If the appropriation provided under this Subsection (4)(d) is less than the amount prescribed by Subsection (4)(d)(ii) or (4)(d)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (4)(d)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.

(e) Of the money provided to a charter school under this Subsection (4), 10% shall be expended for funding school facilities only.

(5) Charter schools are eligible to receive federal funds if they meet all applicable federal requirements and comply with relevant federal regulations.

(6) The State Board of Education shall distribute funds for charter school students directly to the charter school.

(7) (a) Notwithstanding Subsection (3), a charter school is not eligible to receive state transportation funding.

(b) The board shall also adopt rules relating to the transportation of students to and from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

(c) The governing body of the charter school may provide transportation through an agreement or contract with the local school board, a private provider, or with parents.

(8) (a) (i) In accordance with Section 53A-1a-513.5, the State Charter School Board may allocate grants for start-up costs to charter schools from money appropriated for charter school start-up costs.

(ii) The governing board of a charter school that receives money from a grant under Section 53A-1a-513.5 shall use the grant for expenses for planning and implementation of the charter school.

(b) The State Board of Education shall coordinate the distribution of federal money appropriated to help fund costs for establishing and maintaining charter schools within the state.

(9) (a) A charter school may receive, hold, manage and use any devise, bequest, grant, endowment, gift, or donation of any property made to the school for any of the purposes of this part.

(b) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

Amended by Chapter 470, 2013 General Session

53A-1a-513.5. Charter school start-up costs.

(1) (a) The State Charter School Board shall use money appropriated for charter school start-up costs to provide grants to charter schools to pay for expenses for the planning and implementation of a charter school.

(b) The State Charter School Board:

(i) may use up to 8% of the money appropriated for charter school start-up costs for financial monitoring of new charter schools and to provide professional development or technical assistance for governing board members and staff of new charter schools; and

(ii) in accordance with rules adopted by the State Board of Education, may use up to \$200,000 of the money appropriated for charter school start-up costs for a mentoring program for new and existing charter schools.

(2) The amount of a grant for charter school start-up costs shall be based on the authorized enrollment of the charter school.

(3) The State Board of Education shall make rules consistent with this section specifying:

(a) procedures for applying for and awarding grants for charter school start-up costs;

(b) permitted uses of grant money; and

(c) requirements for a charter school to submit the following to the State Charter School Board:

(i) a budget for the grant money; and

(ii) a final report on the expenditure of the grant money.

(4) The State Board of Education shall make rules establishing a mentoring program for new and existing charter schools.

Enacted by Chapter 318, 2012 General Session

53A-1a-514. Tort liability.

(1) An employee of a charter school is a public employee and the governing board is a public employer in the same manner as a local school board for purposes of tort liability.

(2) The governing board of a charter school, the nonprofit corporation under which the charter school is organized and managed, and the school are solely liable for any damages resulting from a legal challenge involving the operation of the school.

Amended by Chapter 363, 2014 General Session

53A-1a-515. Charters authorized by local school boards -- Application process -- Local school board responsibilities.

(1) (a) An applicant identified in Section 53A-1a-504 may submit an application to a local school board to establish and operate a charter school within the geographical boundaries of the school district administered by the local school board.

(b) (i) The principal, teachers, or parents of students at an existing public school may submit an application to the local school board to convert the school or a portion of the school to charter status.

(A) If the entire school is applying for charter status, at least two-thirds of the licensed educators employed at the school and at least two-thirds of the parents or guardians of students enrolled at the school must have signed a petition approving the application prior to its submission to the charter school authorizer.

(B) If only a portion of the school is applying for charter status, the percentage is reduced to a simple majority.

(ii) The local school board may not approve an application submitted under Subsection (1)(b)(i) unless the local school board determines that:

(A) students opting not to attend the proposed converted school would have access to a comparable public education alternative; and

(B) current teachers who choose not to teach at the converted charter school or who are not retained by the school at the time of its conversion would receive a first preference for transfer to open teaching positions for which they qualify within the school district, and, if no positions are open, contract provisions or board policy regarding reduction in staff would apply.

(2) (a) An existing public school that converts to charter status under a charter granted by a local school board may:

(i) continue to receive the same services from the school district that it received prior to its conversion; or

(ii) contract out for some or all of those services with other public or private providers.

(b) Any other charter school authorized by a local school board may contract with the board to receive some or all of the services referred to in Subsection (3)(a).

(c) Except as specified in a charter agreement, local school board assets do not transfer to an existing public school that converts to charter status under a charter granted by a local school board under this section.

(3) (a) (i) A public school that converts to a charter school under a charter granted by a local school board shall receive funding:

- (A) through the school district; and
- (B) on the same basis as it did prior to its conversion to a charter school.
- (ii) The school may also receive federal money designated for charter schools under any federal program.
- (b) (i) A local school board-authorized charter school operating in a facility owned by the school district and not paying reasonable rent to the school district shall receive funding:
 - (A) through the school district; and
 - (B) on the same basis that other district schools receive funding.
- (ii) The school may also receive federal money designated for charter schools under any federal program.
- (c) Subject to the provisions in Section 53A-1a-502.5, a charter school authorized by a local school board shall receive funding as provided in Section 53A-1a-513.
- (d) (i) A charter school authorized by a local school board, but not described in Subsection (3)(a), (b), or (c) shall receive funding:
 - (A) through the school district; and
 - (B) on the same basis that other district schools receive funding.
- (ii) The school may also receive federal money designated for charter schools under any federal program.
- (4) (a) A local school board that receives an application for a charter school under this section shall, within 45 days, either accept or reject the application.
- (b) If the board rejects the application, it shall notify the applicant in writing of the reason for the rejection.
- (c) The applicant may submit a revised application for reconsideration by the board.
- (d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from the State Charter School Board under Section 53A-1a-505.
- (5) The State Board of Education shall make a rule providing for a timeline for the opening of a charter school following the approval of a charter school application by a local school board.
- (6) After approval of a charter school application and in accordance with Section 53A-1a-508, the applicant and the local school board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.
- (7) A local school board shall:
 - (a) annually review and evaluate the performance of charter schools authorized by the local school board and hold the schools accountable for their performance;
 - (b) monitor charter schools authorized by the local school board for compliance with federal and state laws, rules, and regulations; and
 - (c) provide technical support to charter schools authorized by the local school board to assist them in understanding and performing their charter obligations.
- (8) A local school board may terminate a charter school it authorizes as provided in Sections 53A-1a-509 and 53A-1a-510.
- (9) In addition to the exemptions described in Sections 53A-1a-511 and 53A-1a-512, a charter school authorized by a local school board is:
 - (a) not required to separately submit a report or information required under this

title to the State Board of Education if the information is included in a report or information that is submitted by the local school board or school district; and

(b) exempt from the requirement under Section 53A-1a-507 that a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(10) Before a local school board accepts a charter school application, the local school board shall, in accordance with State Board of Education rules, establish and make public the local school board's:

- (a) application requirements, in accordance with Section 53A-1a-504;
- (b) application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 363, 2014 General Session

53A-1a-517. Charter school assets.

(1) (a) A charter school may receive, hold, manage, and use any devise, bequest, grant, endowment, gift, or donation of any asset made to the school for any of the purposes of this part.

(b) Unless a donor or grantor specifically provides otherwise in writing, all assets described in Subsection (1) shall be presumed to be made to the charter school and shall be included in the charter school's assets.

(2) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

(3) All assets purchased with charter school funds shall be included in the charter school's assets.

(4) A charter school may not dispose of its assets in violation of the provisions of this part, state board rules, policies of its charter school authorizer, or its charter, including the provisions governing the closure of a charter school under Section 53A-1a-510.5.

Amended by Chapter 363, 2014 General Session

53A-1a-518. Regulated transactions and relationships -- Definitions -- Rulemaking.

(1) As used in this section:

(a) "Charter school officer" means:

- (i) a member of a charter school's governing board;
- (ii) a member of a board or an officer of a nonprofit corporation under which a charter school is organized and managed; or
- (iii) the chief administrative officer of a charter school.

(b) (i) "Employment" means a position in which a person's salary, wages, pay, or compensation, whether as an employee or contractor, is paid from charter school funds.

(ii) "Employment" does not include a charter school volunteer.

(c) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) (a) Except as provided in Subsection (2)(b), a relative of a charter school officer may not be employed at a charter school.

(b) If a relative of a charter school officer is to be considered for employment in a charter school, the charter school officer shall:

- (i) disclose the relationship, in writing, to the other charter school officers;
- (ii) submit the employment decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;
- (iii) abstain from voting on the issue; and
- (iv) be absent from any meeting when the employment is being considered and determined.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a relative of a charter school officer may not have a financial interest in a contract or other transaction involving a charter school in which the charter school officer serves as a charter school officer.

(b) If a charter school's governing board considers entering into a contract or executing a transaction in which a charter school officer or a relative of a charter school officer has a financial interest, the charter school officer shall:

- (i) disclose the financial interest, in writing, to the other charter school officers;
- (ii) submit the contract or transaction decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;
- (iii) abstain from voting on the issue; and
- (iv) be absent from any meeting when the contract or transaction is being considered and determined.

(c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of employment for:

- (i) the chief administrative officer of a charter school; or
- (ii) a relative of the chief administrative officer of a charter school whose employment is approved in accordance with the provisions in Subsection (2).

(4) The State Board of Education or State Charter School Board may not operate a charter school.

Amended by Chapter 162, 2010 General Session

53A-1a-519. Charter school students' participation in extracurricular activities at other public schools.

(1) A charter school student is eligible to participate in an extracurricular activity not offered by the student's charter school at:

(a) the school within whose attendance boundaries the student's custodial parent or legal guardian resides;

(b) the public school from which the student withdrew for the purpose of attending a charter school; or

(c) a public school that is not a charter school if the student's charter school is located on the campus of the public school or has local school board approval to locate

on the campus of the public school.

(2) In addition to the public schools listed in Subsection (1), the State Board of Education may establish rules to allow a charter school student to participate in an extracurricular activity at a public school other than a public school listed in Subsection (1).

(3) A school other than a school described in Subsection (1)(a), (b), or (c) may allow a charter school student to participate in extracurricular activities other than:

(a) interschool competitions of athletic teams sponsored and supported by a public school; or

(b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.

(4) A charter school student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full-time students of the public school.

(6) (a) The State Board of Education shall make rules establishing fees for charter school students' participation in extracurricular activities at school district schools.

(b) The rules shall provide that:

(i) charter school students pay the same fees as other students to participate in extracurricular activities;

(ii) charter school students are eligible for fee waivers pursuant to Section 53A-12-103;

(iii) for each charter school student who participates in an extracurricular activity at a school district school, the charter school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) a charter school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.

(c) In determining a charter school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a charter school student is eligible to try out for and participate in the activity as provided in this section.

Amended by Chapter 433, 2011 General Session

53A-1a-520. Accountability -- Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after consultation with chartering entities, the State Board of Education shall make rules that:

- (1) require a charter school to develop an accountability plan, approved by its charter school authorizer, during its first year of operation;
- (2) require an authorizer to:
 - (a) visit a charter school at least once during:
 - (i) its first year of operation; and
 - (ii) the review period described under Subsection (3); and
 - (b) provide written reports to its charter schools after the visits; and
- (3) establish a review process that is required of a charter school once every five years by its authorizer.

Amended by Chapter 363, 2014 General Session

53A-1a-521. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.

(1) Subject to the approval of the State Board of Education and except as provided in Subsection (8), an applicant identified in Section 53A-1a-504 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school shall be located either before or at the same time the applicant files the application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).

(3) (a) If a board of trustees approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.

(b) The State Board of Education shall, by majority vote, within 60 days of receipt of the application, approve or deny an application approved by a board of trustees.

(c) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.

(4) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

(5) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(6) (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Subsection (7).

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (6)(a) shall be:

- (i) paid to the board of trustees' higher education institution; and
- (ii) expended as directed by the board of trustees.

(7) A board of trustees shall:

(a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the board of trustees to assist them in understanding and performing their charter obligations.

(8) (a) In addition to complying with the requirements of this section, a campus board of directors of a college campus within the Utah College of Applied Technology shall obtain the approval of the Utah College of Applied Technology Board of Trustees before entering into an agreement to establish and operate a charter school.

(b) If a campus board of directors of a college campus with the Utah College of Applied Technology approves an application to establish and operate a charter school, the campus board of directors of the college campus shall submit the application to the Utah College of Applied Technology Board of Trustees.

(c) The Utah College of Applied Technology Board of Trustees shall, by majority vote, within 60 days of receipt of the application, approve or deny the application approved by the campus board of directors.

(d) The Utah College of Applied Technology Board of Trustees may deny an application approved by a campus board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53A-1a-503.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(9) (a) Subject to the requirements of this part, a campus board of directors of a college campus within the Utah College of Applied Technology may establish:

(i) procedures for submitting applications to establish and operate a charter school to a campus board of directors of a college campus within the Utah College of Applied Technology; and

(ii) criteria for a campus board of directors' approval of an application to establish and operate a charter school.

(b) The Utah College of Applied Technology Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (9)(a).

(10) Before a board of trustees accepts a charter school application, the board

of trustees shall, in accordance with State Board of Education rules, establish and make public the board of trustees':

- (a) application requirements, in accordance with Section 53A-1a-504;
- (b) application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 189, 2014 General Session

Amended by Chapter 363, 2014 General Session

53A-1a-522. Charter School Revolving Account.

(1) As used in this section, "account" means the Charter School Revolving Account.

(2) (a) There is created within the Uniform School Fund a restricted account known as the "Charter School Revolving Account" to provide assistance to charter schools to:

- (i) meet school building construction and renovation needs; and
- (ii) pay for expenses related to the start up of a new charter school or the expansion of an existing charter school.

(b) The State Board of Education, in consultation with the State Charter School Board, shall administer the Charter School Revolving Account in accordance with rules adopted by the State Board of Education.

(3) The Charter School Revolving Account shall consist of:

- (a) money appropriated to the account by the Legislature;
- (b) money received from the repayment of loans made from the account; and
- (c) interest earned on money in the account.

(4) The state superintendent of public instruction shall make loans to charter schools from the account to pay for the costs of:

- (a) planning expenses;
- (b) constructing or renovating charter school buildings;
- (c) equipment and supplies; or
- (d) other start-up or expansion expenses.

(5) Loans to new charter schools or charter schools with urgent facility needs may be given priority.

(6) (a) The State Board of Education shall establish a committee to:

- (i) review requests by charter schools for loans under this section; and
- (ii) make recommendations regarding approval or disapproval of the loan applications to the State Charter School Board and the State Board of Education.

(b) (i) A committee established under Subsection (6)(a) shall include individuals who have expertise or experience in finance, real estate, or charter school administration.

(ii) Of the members appointed to a committee established under Subsection (6)(a):

- (A) one member shall be nominated by the governor; and
- (B) the remaining members shall be selected from a list of nominees submitted by the State Charter School Board.

(c) If the committee recommends approval of a loan application under

Subsection (6)(a)(ii), the committee's recommendation shall include:

(i) the recommended amount of the loan;

(ii) the payback schedule; and

(iii) the interest rate to be charged.

(d) A committee member may not:

(i) be a relative, as defined in Section 53A-1a-518, of a loan applicant; or

(ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person or entity that contracts with a loan applicant.

(7) A loan under this section may not be made unless the State Board of Education, in consultation with the State Charter School Board, approves the loan.

(8) The term of a loan to a charter school under this section may not exceed five years.

(9) The State Board of Education may not approve loans to charter schools under this section that exceed a total of \$2,000,000 in any fiscal year.

(10) (a) On March 16, 2011, the assets of the Charter School Building Subaccount administered by the State Board of Education shall be deposited into the Charter School Revolving Account.

(b) Beginning on March 16, 2011, loan payments for loans made from the Charter School Building Subaccount shall be deposited into the Charter School Revolving Account.

Enacted by Chapter 30, 2011 General Session

53A-1a-523. Property tax exemption for property owned by a charter school.

For purposes of a property tax exemption for property of school districts under Subsection 59-2-1101(3)(a)(ii)(B), a charter school is considered to be a school district.

Enacted by Chapter 436, 2011 General Session

53A-1a-601. Job enhancements for mathematics, science, technology, and special education training.

(1) As used in this part, "special education teacher" includes occupational therapist.

(2) The Public Education Job Enhancement Program is established to attract, train, and retain highly qualified:

(a) secondary teachers with expertise in mathematics, physics, chemistry, physical science, learning technology, or information technology;

(b) special education teachers; and

(c) teachers in grades four through six with mathematics endorsements.

(3) The program shall provide for the following:

(a) application by a school district superintendent or the principal of a school on behalf of a qualified teacher;

(b) an award of up to \$20,000 or a scholarship to cover the tuition costs for a master's degree, an endorsement, or graduate education in the areas identified in Subsection (2) to be given to selected public school teachers on a competitive basis:

- (i) whose applications are approved under Subsection 53A-1a-602(4); and
 - (ii) who teach in the state's public education system for four years in the areas identified in Subsection (2);
 - (c) (i) as to the cash awards under Subsection (3)(b), payment of the award in two installments, with an initial payment of up to \$10,000 at the beginning of the term and up to \$10,000 at the conclusion of the term;
 - (ii) repayment of a portion of the initial payment by the teacher if the teacher fails to complete two years of the four-year teaching term in the areas identified in Subsection (2) as provided by rule of the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, unless waived for good cause by the State Board of Education; and
 - (iii) nonpayment of the second installment if the teacher fails to complete the four-year teaching term; and
 - (d) (i) as to the scholarships awarded under Subsection (3)(b), provision for the providing institution to certify adequate performance in obtaining the master's degree, endorsement, or graduate education in order for the teacher to maintain the scholarship; and
 - (ii) repayment by the teacher of a prorated portion of the scholarship, if the teacher fails to complete the authorized classes or program or to teach in the state system of public education in the areas identified in Subsection (2) for four years after obtaining the master's degree, the endorsement, or graduate education.
- (4) An individual teaching in the public schools under a letter of authorization may participate in the cash award program if:
- (a) the individual has taught under the letter of authorization for at least one year in the areas referred to in Subsection (2); and
 - (b) the application made under Subsection (3)(a) is based in large part upon the individual receiving a superior evaluation as a classroom teacher.
- (5) (a) The program may provide for the expenditure of up to \$1,000,000 of available money, if at least an equal amount of matching money becomes available, to provide professional development training to superintendents, administrators, and principals in the effective use of technology in public schools.
- (b) An award granted under this Subsection (5) shall be made in accordance with criteria developed and adopted by the State Board of Education and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (c) An amount up to \$120,000 of the \$1,000,000 authorized in Subsection (5)(a) may be expended, regardless of the matching money being available.

Amended by Chapter 413, 2013 General Session

53A-1a-701. Title.

This part is known as the "Carson Smith Scholarships for Students with Special Needs Act."

Enacted by Chapter 35, 2005 General Session

53A-1a-702. Findings and purpose.

The Legislature finds that:

- (1) the state system of public education as established and maintained under the state constitution shall be open to all children of the state;
- (2) students with disabilities have special needs that merit educational alternatives which will allow students to learn in an appropriate setting and manner;
- (3) those needs may include teachers trained in special teaching methods, small class sizes, and special materials, equipment, and classroom environments;
- (4) parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children;
- (5) the establishment of this scholarship program is justified on the basis of funding the special needs of students with disabilities as with other programs similarly funded by the state for people with disabilities;
- (6) children, parents, and families are the primary beneficiaries of the scholarship program authorized in this part and any benefit to private schools, sectarian or otherwise, is purely incidental;
- (7) the scholarship program authorized in this part is:
 - (a) enacted for the valid secular purpose of tailoring a student's education to that student's specific needs;
 - (b) neutral with respect to religion;
 - (c) provides limited assistance to citizens who are then able to direct their resources to religious and secular schools solely as a result of their genuine and independent private choices; and
 - (d) in accordance with the best interests of the taxpayers and citizens of the state to encourage educational opportunities; and
- (8) nothing in this part shall be construed as a basis for granting vouchers or tuition tax credits for any other students, with or without disabilities.

Enacted by Chapter 35, 2005 General Session

53A-1a-703. Definitions.

As used in this part:

- (1) "Assessment team" means a team consisting of:
 - (a) the student's parent or guardian;
 - (b) the student's private school classroom teacher;
 - (c) special education personnel from the student's school district; and
 - (d) if available, special education personnel from the private school at which the student is enrolled.
- (2) "Board" means the State Board of Education.
- (3) "Eligible private school" means a private school that meets the requirements of Section 53A-1a-705.
- (4) "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (5) "Scholarship student" means a student who receives a scholarship under this part.

(6) "Value of the weighted pupil unit" means the amount established each year in statute that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Amended by Chapter 3, 2010 General Session

53A-1a-704. Scholarship program created -- Qualifications.

(1) The Carson Smith Scholarship Program is created to award scholarships to students with disabilities to attend a private school.

(2) To qualify for a scholarship:

(a) the student's custodial parent or legal guardian shall reside within Utah;

(b) the student shall have one or more of the following disabilities:

(i) an intellectual disability;

(ii) a hearing impairment;

(iii) a speech or language impairment;

(iv) a visual impairment;

(v) a serious emotional disturbance;

(vi) an orthopedic impairment;

(vii) autism;

(viii) traumatic brain injury;

(ix) other health impairment;

(x) specific learning disabilities; or

(xi) a developmental delay, provided the student is at least five years of age, pursuant to Subsection (2)(c), and is younger than eight years of age;

(c) the student shall be at least five years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school; and

(d) except as provided in Subsection (3), the student shall:

(i) be enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school;

(ii) have an IEP; and

(iii) have obtained acceptance for admission to an eligible private school.

(3) The requirements of Subsection (2)(d) do not apply in the following circumstances:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty:

(i) that the student has a disability listed in Subsection (2)(b) and would qualify for special education services, if enrolled in a public school; and

(ii) for the purpose of establishing the scholarship amount, the appropriate level of special education services which should be provided to the student.

(4) (a) To receive a full-year scholarship under this part, a parent of a student shall submit to the school district where the student is enrolled an application on or before the August 15 immediately preceding the first day of the school year for which

the student would receive the scholarship.

(b) The board may waive the full-year scholarship deadline described in Subsection (4)(a).

(c) An application for a scholarship shall contain an acknowledgment by the parent that the selected school is qualified and capable of providing the level of special education services required for the student.

(5) (a) The scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of special education services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student.

(c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(d) The creation of the scholarship program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) (a) A scholarship shall remain in force for three years.

(b) A scholarship shall be extended for an additional three years, if:

(i) the student is evaluated by an assessment team; and

(ii) the assessment team determines that the student would qualify for special education services, if enrolled in a public school.

(c) The assessment team shall determine the appropriate level of special education services which should be provided to the student for the purpose of setting the scholarship amount.

(d) A scholarship shall be extended for successive three-year periods as provided in Subsections (6)(a) and (b):

(i) until the student graduates from high school; or

(ii) if the student does not graduate from high school, until the student is age 22.

(7) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.

(8) A scholarship student may not participate in a dual enrollment program pursuant to Section 53A-11-102.5.

(9) The parents or guardians of a scholarship student have the authority to choose the private school that will best serve the interests and educational needs of that student, which may be a sectarian or nonsectarian school, and to direct the

scholarship resources available for that student solely as a result of their genuine and independent private choices.

(10) (a) A school district or charter school shall notify in writing the parents or guardians of students enrolled in the school district or charter school who have an IEP of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

(b) The notice described under Subsection (10)(a) shall:

(i) be provided no later than 30 days after the student initially qualifies for an IEP;

(ii) be provided annually no later than February 1 to all students who have an IEP; and

(iii) include the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program.

(c) A school district, school within a school district, or charter school that has an enrolled student who has an IEP shall post the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program on the school district's or school's website, if the school district or school has one.

Amended by Chapter 278, 2014 General Session

53A-1a-705. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) (A) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(I) the audit shall be performed in accordance with generally accepted auditing standards;

(II) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(III) the audited financial statements shall be as of a period within the last 12 months; or

(B) contract with a licensed independent certified public accountant to perform an agreed upon procedure as follows:

(I) the agreed upon procedure shall be to determine that the private school has adequate working capital to maintain operations for the first full year; and

(II) working capital shall be calculated by subtracting current liabilities from current assets; and

(ii) submit the audit report or report of the agreed upon procedure to the board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) disclose to the parent of each prospective student, before the student is enrolled, the special education services that will be provided to the student, including

the cost of those services;

(f) (i) administer an annual assessment of each scholarship student's academic progress;

(ii) report the results of the assessment to the student's parent; and

(iii) make the results available to the assessment team evaluating the student pursuant to Subsection 53A-1a-704(6);

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools;

or

(iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:

(A) in the subjects taught; and

(B) to the special needs students taught; and

(h) provide to parents the relevant credentials of the teachers who will be teaching their students.

(2) A private school is not eligible to enroll scholarship students if:

(a) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; or

(b) the report of the agreed upon procedure submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b).

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the board by May 1 of the school year preceding the school year in which it intends to enroll scholarship students.

(6) The board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of the eligible private schools.

(7) An approved eligible private school that changes ownership shall submit a new application to the board and demonstrate that it continues to meet the eligibility requirements of this section.

Amended by Chapter 197, 2009 General Session

53A-1a-706. Scholarship payments.

(1) (a) Scholarships shall be awarded by the board subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the board from the General Fund to make scholarship payments.

(c) Beginning with the 2013-14 school year, the Legislature shall annually increase the amount of money appropriated under Subsection (1)(b) by an amount equal to the product of:

(i) the average scholarship amount awarded as of December 1 in the previous year; and

(ii) the product of:

(A) the number of students in grades kindergarten through 12 in public schools statewide who have an IEP on December 1 of the previous year; and

(B) 0.0007.

(d) If the number of scholarship students as of December 1 in any school year equals or exceeds 7% of the number of students in grades kindergarten through 12 in public schools statewide who have an IEP as of December 1 in the same school year, the Public Education Appropriations Subcommittee shall study the requirement to increase appropriations for scholarship payments as provided in this section.

(e) (i) If money is not available to pay for all scholarships requested, the scholarships shall be allocated on a random basis except that preference shall be given to students who received scholarships in the previous school year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships, new scholarships may not be awarded during that school year and the money available for scholarships shall be prorated among the eligible students who received scholarships in the previous year.

(2) Full-year scholarships shall be awarded in the following amounts:

(a) for a student who received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 2.5; or

(ii) the private school tuition and fees; and

(b) for a student who received an average of less than 180 minutes per day of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.5; or

(ii) the private school tuition and fees.

(3) The scholarship amount for a student enrolled in a half-day kindergarten program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

(4) (a) The scholarship amount for a student who receives a waiver under Subsection 53A-1a-704(3) shall be based upon the assessment team's determination of the appropriate level of special education services to be provided to the student.

(b) (i) If the student requires an average of 180 minutes per day or more of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(a).

(ii) If the student requires less than an average of 180 minutes per day of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(b).

(iii) If the student is enrolled in a half-day kindergarten program, a full-year scholarship is equal to the amount specified in Subsection (3).

(5) (a) Except as provided in Subsection (5)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the board shall make scholarship payments quarterly in four equal amounts in each school year in which a scholarship is in force.

(b) In accordance with board rule, the board may make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(6) A parent of a scholarship student shall notify the board if the student does not have continuing enrollment and attendance at an eligible private school.

(7) Before scholarship payments are made, the board shall cross-check enrollment lists of scholarship students, school districts, and youth in custody to ensure that scholarship payments are not erroneously made.

(8) (a) Scholarship payments shall be made by the board by individual warrant made payable to the student's parent and mailed by the board to the private school. The parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(b) A person, on behalf of a private school, may not accept a power of attorney from a parent to sign a warrant referred to in Subsection (8)(a), and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a private school, as the parent's attorney-in-fact.

Amended by Chapter 154, 2013 General Session

53A-1a-707. Board to make rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules consistent with this part establishing:

- (1) the eligibility of students to participate in the scholarship program; and
- (2) the application process for the scholarship program.

Amended by Chapter 382, 2008 General Session

53A-1a-708. Enforcement and penalties.

(1) (a) The board shall require private schools to submit signed affidavits assuring the private school will comply with the requirements of this part.

(b) If a school fails to submit a signed affidavit after having an opportunity to provide explanations and request delays, the board may:

- (i) deny the private school permission to enroll scholarship students; and
- (ii) interrupt disbursement of or withhold scholarship payments.

(2) The board may investigate complaints and convene administrative hearings for an alleged violation of this part.

(3) Upon a finding that this part was violated, the board may:

- (a) deny a private school permission to enroll scholarship students;
- (b) interrupt disbursement of or withhold scholarship payments; or
- (c) issue an order for repayment of scholarship payments fraudulently obtained.

Enacted by Chapter 35, 2005 General Session

53A-1a-709. Limitation on regulation of private schools.

Nothing in this part grants additional authority to any state agency or school

district to regulate private schools except as expressly set forth in this part.

Enacted by Chapter 35, 2005 General Session

53A-1a-710. Review by Legislative Auditor General.

The Legislative Auditor General shall conduct a review and issue a report on the Carson Smith Scholarship Program after the conclusion of the 2006-07 school year.

Enacted by Chapter 35, 2005 General Session

53A-1a-804. Scholarship program created -- Qualifications -- Application.

(1) The Parent Choice in Education Program is created to award scholarships to students to attend a private school.

(2) To qualify for a scholarship under this part:

(a) the student's custodial parent or legal guardian shall reside within Utah;

(b) the student shall be at least five years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school;

(c) the student shall meet one or more of the following criteria:

(i) the student was born after September 1, 2001;

(ii) the student was enrolled as a full-time student in a Utah public school on January 1, 2007;

(iii) the individual was not a Utah resident on January 1, 2007; or

(iv) the student's parents had an annual income less than or equal to 100% of the income eligibility guideline in the calendar year immediately preceding the school year for which a scholarship is sought; and

(d) the student may not be a recipient of a scholarship awarded under Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act.

(3) (a) To receive a scholarship, the parent of a student shall submit an application for the scholarship to the board by the June 1 preceding the school year for which a scholarship is sought, except the deadline for submitting an application for the 2007-08 school year is July 15, 2007. Along with the application, the student's parent shall submit documentation verifying income as required by board rule.

(b) The board may waive the application deadline.

(4) The board shall award scholarships by the July 1 preceding the school year for which a scholarship is sought, except the deadline for awarding scholarships for the 2007-08 school year is August 15, 2007.

(5) (a) The scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of services that are provided in a public school.

(2) The private school in which I have chosen to enroll my child has disclosed to me the teaching credentials of the school's teachers and the school's accreditation status.

(3) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship.

(4) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq."

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student for the period in which the student receives the scholarship, including costs associated with transportation.

(c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(6) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.

Enacted by Chapter 30, 2007 General Session

53A-1a-805. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) contract with an independent certified public accountant to perform the agreed upon procedures specified in Subsection (2) and produce a report of the results which shall be submitted to the board at the times specified in Subsection (2);

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) disclose to the parent of each prospective student, before the student is enrolled, the special education services that will be provided to the student, if any, including the cost of those services;

(f) (i) annually assess the achievement of each student by administering:

(A) a norm-referenced test scored by an independent party that provides a comparison of the student's academic performance to other students on a national basis; or

(B) an alternative assessment of the student's achievement, if the student:

(I) has a disability or limited English proficiency; and

(II) would be exempt from taking a nationally norm-referenced achievement test if enrolled in a Utah public school;

(ii) report the test results to the student's parents; and

(iii) upon request, make test results available to other persons, in a manner that does not reveal the identity of any student;

(g) employ or contract with teachers who have completed a criminal background check that complies with the requirements of Section 53A-3-410 and:

(i) hold baccalaureate or higher degrees; or

(ii) have special skills, knowledge, or expertise that qualifies them to provide instruction in the subjects taught;

(h) provide to parents the teaching credentials of the school's teachers; and

(i) provide, upon request to any person, a statement indicating which, if any, organizations have accredited the private school.

(2) (a) The agreed upon procedures to be performed pursuant to Subsection (1)(b) are as follows:

(i) (A) determine that working capital is at least 80% of average quarterly expenditures by taking total expenditures for a year and dividing it by four and then dividing average quarterly expenditures into working capital; and

(B) for a school in the first year of operations, use the estimated budget to estimate average quarterly expenditures;

(ii) (A) determine that scholarship payments are accounted for separately and reconciled to student records; and

(B) for the first year of operations, determine that procedures are in place for this accounting; and

(iii) (A) determine that expenditure of scholarship funds have been made for education expenses and is consistent with other tuition expenditures; and

(B) for the first year of operations, determine that procedures are in place for this accounting.

(b) (i) The independent certified public accountant's report on the agreed upon procedures specified in Subsection (2)(a) shall be submitted to the board when the private school applies to accept scholarship students and every four years thereafter, except as provided in Subsection (2)(b)(ii).

(ii) The board may, by rule, delay the date when the independent certified public accountant's report shall be submitted for private schools applying to accept scholarship students in the 2007-08 school year.

(3) The following are not eligible to enroll scholarship students:

(a) a school with an enrollment of fewer than 40 students;

(b) a school that operates in a residence;

(c) a school that encourages illegal conduct; or

(d) a residential treatment facility licensed by the state.

(4) (a) Except as provided in Subsection (4)(b), a private school intending to enroll scholarship students shall submit an application to the board by April 1 of the school year preceding the school year in which it intends to enroll scholarship students.

(b) A private school intending to enroll scholarship students in the 2007-08 school year shall submit an application by June 15, 2007.

(5) The board shall:

(a) approve a private school's application to enroll scholarship students if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of the eligible private schools:

(i) for the 2008-09 school year and each school year thereafter, by the April 30 preceding the school year; and

(ii) for the 2007-08 school year, by July 1, 2007.

Enacted by Chapter 30, 2007 General Session

53A-1a-806. Scholarship payments.

(1) (a) Scholarships shall be awarded by the board subject to the availability of

money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the board from the General Fund to make scholarship payments for all students projected to apply for scholarships.

(c) (i) If money is not available to pay for all scholarships requested, the scholarships shall be allocated on a random basis except that preference shall be given to students who received scholarships in the previous year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships:

(A) new scholarships may not be awarded during that school year;

(B) the money available for scholarships shall be prorated among the eligible students who received scholarships in the previous year; and

(C) the board shall request a supplemental appropriation from the Legislature to make full scholarship payments as provided in Subsection (4) or (5).

(2) (a) Scholarships shall be awarded based upon the income of a scholarship student's parents in the calendar year immediately preceding the school year for which a scholarship is sought.

(b) (i) The board shall make rules specifying how the income of a prospective scholarship student's parents shall be determined and verified.

(ii) The rules shall provide that the scholarship shall be based upon parental income as follows:

(A) if the parents are married, the income of both parents;

(B) if a parent is widowed, the income of the widowed parent;

(C) if a parent is widowed and has remarried, the income of the parent and stepparent;

(D) if the parents are divorced, the income of the parent with whom the scholarship student resided for the greatest amount of time during the past 12 months;

(E) if the parents are divorced and the scholarship student resided with each parent an equal amount of time, the income of the parent who provided more financial support during the past 12 months;

(F) if the divorced parent with whom the scholarship student resided for the greatest amount of time or who provided the greatest financial support has remarried, the income of the parent and stepparent; and

(G) if the scholarship student resides with a guardian, the income of the guardian, unless the guardian's income is exempt by board rule.

(iii) The rules shall provide that:

(A) if a parent filed federal or state income tax forms, income shall be based upon adjusted gross income as listed on the income tax forms;

(B) if a parent was exempt from filing federal and state income tax forms, income shall be based on income earned from work; and

(C) a parent shall submit documentation verifying income.

(3) (a) The board shall compare the income of a scholarship student's parents to the maximum annual incomes listed in the income eligibility guideline as defined in Section 53A-1a-803 to set the scholarship amount.

(b) In determining scholarship amounts, the board shall use:

(i) the income eligibility guideline in effect for the school year immediately

preceding the school year for which a scholarship is sought; and

(ii) the scholarship student's household size as the applicable household size for the purpose of determining maximum annual income under the income eligibility guideline.

(4) Full-year scholarships shall be awarded in the amounts shown in the following table, or for the amount of tuition for a full year, whichever is less.

If the annual income of a scholarship student's parents is:	The full-year scholarship amount is:
Less than or equal to 100% of the income eligibility guideline	\$3,000
Greater than 100% but less than or equal to 125% of the income eligibility guideline	\$2,750
Greater than 125% but less than or equal to 150% of the income eligibility guideline	\$2,500
Greater than 150% but less than or equal to 175% of the income eligibility guideline	\$2,250
Greater than 175% but less than or equal to 200% of the income eligibility guideline	\$2,000
Greater than 200% but less than or equal to 225% of the income eligibility guideline	\$1,750
Greater than 225% but less than or equal to 250% of the income eligibility guideline	\$1,000
Greater than 250% of the income eligibility guideline	\$500

(5) The full-year scholarship amounts shown in the table in Subsection (4) apply to scholarships for all grades except kindergarten. The full-year scholarship amount for kindergarten shall be .55 times the amounts shown in the table in Subsection (4).

(6) The board shall annually increase the full-year scholarship amounts shown in the table in Subsection (4) by the same percentage annual increase in the value of the weighted pupil unit established in Section 53A-17a-103.

(7) (a) Except as provided in Subsection (7)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the board shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 15 of each school year in which a scholarship is in force.

(b) In accordance with board rule, the board shall make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(8) A parent of a scholarship student and the student's private school shall notify the board if the student does not have continuing enrollment and attendance at the private school.

(9) Before scholarship payments are made, the board shall cross-check enrollment lists of scholarship students, school districts, and youth in custody to ensure that scholarship payments are not erroneously made.

(10) (a) Scholarship payments shall be made by the board by individual warrant made payable to the student's parent and mailed by the board to the private school. The parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(b) A person, on behalf of a private school, may not accept a power of attorney from a parent to sign a warrant referred to in Subsection (10)(a), and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a private school, as the parent's attorney in fact.

Amended by Chapter 342, 2011 General Session

53A-1a-808. Board to make rules.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules consistent with this part:

(a) establishing the application process for the scholarship program, including procedures to allow a parent to apply for a scholarship online;

(b) establishing how the income of a scholarship student's parents shall be determined and verified; and

(c) implementing Section 53A-1a-807.

(2) By May 15, 2007, the board shall adopt rules establishing:

(a) the application process for private schools and scholarship students; and

(b) how the income of a scholarship student's parents shall be determined.

Amended by Chapter 382, 2008 General Session

53A-1a-811. Review by legislative auditor general.

The legislative auditor general shall conduct a review and issue a report on the Parent Choice in Education Program after the conclusion of the 2011-12 school year.

Enacted by Chapter 30, 2007 General Session

53A-1a-1001. Definitions.

As used in this part:

(1) "Contractor" means the educational technology provider selected by the State Board of Education under Section 53A-1a-1002.

(2) "Low income" means an income below 185% of the federal poverty guideline.

(3) "Preschool children" means children who are:

(a) age four or five; and

(b) have not entered kindergarten.

(4) "UPSTART" means the pilot project established by Section 53A-1a-1002 that uses a home-based educational technology program to develop school readiness skills of preschool children.

Amended by Chapter 102, 2014 General Session

53A-1a-1002. UPSTART program to develop school readiness skills of preschool children.

(1) UPSTART, a pilot project that uses a home-based educational technology program to develop school readiness skills of preschool children, is established within the public education system.

(2) UPSTART is created to:

(a) evaluate the effectiveness of giving preschool children access, at home, to interactive individualized instruction delivered by computers and the Internet to prepare them academically for success in school; and

(b) test the feasibility of scaling a home-based curriculum in reading, math, and science delivered by computers and the Internet to all preschool children in Utah.

(3) The State Board of Education shall contract with an educational technology provider, selected through a request for proposals process, for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

(4) A home-based educational technology program for preschool children shall meet the following standards:

(a) the contractor shall provide computer-assisted instruction for preschool children on a home computer connected by the Internet to a centralized file storage facility;

(b) the contractor shall:

(i) provide technical support to families for the installation and operation of the instructional software; and

(ii) provide for the installation of computer and Internet access in homes of low income families that cannot afford the equipment and service;

(c) the contractor shall have the capability of doing the following through the Internet:

(i) communicating with parents;

(ii) updating the instructional software;

(iii) validating user access;

(iv) collecting usage data;

(v) storing research data; and

(vi) producing reports for parents, schools, and the Legislature;

(d) the program shall include the following components:

(i) computer-assisted, individualized instruction in reading, mathematics, and science;

(ii) a multisensory reading tutoring program; and

(iii) a validated computer adaptive reading test that does not require the presence of trained adults to administer and is an accurate indicator of reading readiness of children who cannot read;

(e) the contractor shall have the capability to quickly and efficiently modify, improve, and support the product;

(f) the contractor shall work in cooperation with school district personnel who will provide administrative and technical support of the program as provided in Section 53A-1a-1003;

(g) the contractor shall solicit families to participate in the program as provided in Section 53A-1a-1004; and

(h) in implementing the home-based educational technology program, the contractor shall seek the advise and expertise of early childhood education professionals within the Utah System of Higher Education on issues such as:

(i) soliciting families to participate in the program;

(ii) providing training to families; and

(iii) motivating families to regularly use the instructional software.

(5) The contract shall provide funding for a home-based educational technology program for preschool children for one year with an option to extend the contract for additional years or to expand the program to a greater number of preschool children, subject to the appropriation of money by the Legislature for UPSTART.

(6) (a) The State Board of Education shall issue a request for proposals for a home-based educational technology program for preschool children that takes effect upon the expiration of the pilot project on July 1, 2019, provided that the Legislature reauthorizes and funds the program.

(b) The State Board of Education shall evaluate a proposal based on:

(i) whether the home-based educational technology program meets the standards specified in Subsection (4);

(ii) the results of an independent evaluation of the home-based educational technology program;

(iii) the experience of the home-based educational technology program provider; and

(iv) the per pupil cost of the home-based educational technology program.

Amended by Chapter 102, 2014 General Session

53A-1a-1003. School district participation in UPSTART.

(1) A school district may participate in UPSTART if the local school board agrees to work in cooperation with the contractor to provide administrative and technical support for the pilot project.

(2) Family participants in UPSTART shall be solicited from school districts that participate in UPSTART.

(3) A school district that participates in UPSTART shall:

(a) receive funding for:

(i) paraprofessional and technical support staff; and

(ii) travel, materials, and meeting costs of the program;

(b) participate in program training by the contractor; and

(c) agree to adopt standardized policies and procedures in implementing the pilot project.

Enacted by Chapter 397, 2008 General Session

53A-1a-1004. Family participation in UPSTART.

(1) The contractor shall solicit families to participate in UPSTART through a public information campaign and referrals from participating school districts.

(2) (a) Preschool children who participate in UPSTART shall:

(i) be from families with diverse socioeconomic and ethnic backgrounds; and

(ii) reside in different regions of the state in both urban and rural areas.

(b) (i) If the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation, the contractor shall give priority to preschool children from low income families and preschool children who are English language learners.

(ii) At least 30% of the preschool children who participate in UPSTART shall be from low income families.

(3) A low income family that cannot afford a computer and Internet service to operate the instructional software may obtain a computer and peripheral equipment on loan and receive free Internet service for the duration of the family's participation in the pilot project.

(4) (a) The contractor shall make the home-based educational technology program available to families at a cost agreed upon by the State Board of Education and the contractor if the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation.

(b) The State Board of Education and the contractor shall annually post on their websites information on purchasing a home-based educational technology program as provided in Subsection (4)(a).

Amended by Chapter 102, 2014 General Session

53A-1a-1005. Purchase of equipment and service through cooperative purchasing contracts.

The State Board of Education or a school district may purchase computers, peripheral equipment, and Internet service for low income families who cannot afford them through cooperative purchasing contracts administered by the state Division of Purchasing and General Services.

Enacted by Chapter 397, 2008 General Session

53A-1a-1006. Audit and evaluation.

(1) The state auditor shall:

(a) conduct an annual audit of the contractor's use of funds for UPSTART; or

(b) contract with an independent certified public accountant to conduct an annual audit.

(2) The State Board of Education shall:

(a) require by contract that the contractor will open its books and records relating to its expenditure of funds pursuant to the contract to the state auditor or the state auditor's designee;

(b) reimburse the state auditor for the actual and necessary costs of the audit;
and

(c) contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the home-based educational technology program for preschool children.

(3) Of the money appropriated by the Legislature for UPSTART, excluding funds used to provide computers, peripheral equipment, and Internet service to families, no more than 7.5% may be used for the evaluation of the program.

Enacted by Chapter 397, 2008 General Session

53A-1a-1007. Annual report.

(1) The State Board of Education shall make a report on UPSTART to the Education Interim Committee by November 30 each year.

(2) The report shall:

(a) address the extent to which UPSTART is accomplishing the purposes for which it was established as specified in Section 53A-1a-1002; and

(b) include the following information:

(i) the number of families:

(A) volunteering to participate in the program;

(B) selected to participate in the program;

(C) requesting computers; and

(D) furnished computers;

(ii) the frequency of use of the instructional software;

(iii) obstacles encountered with software usage, hardware, or providing technical assistance to families;

(iv) student performance on pre-kindergarten and post-kindergarten assessments conducted by school districts and charter schools for students who participated in the home-based educational technology program and those who did not participate in the program; and

(v) as available, the evaluation of the program conducted pursuant to Section 53A-1a-1006.

Enacted by Chapter 397, 2008 General Session

53A-1b-101. Title.

This chapter is known as "School Readiness Initiative."

Enacted by Chapter 304, 2014 General Session

53A-1b-102. Definitions.

As used in this part:

(1) "Board" means the School Readiness Board, created in Section 53A-1b-103.

(2) "Economically disadvantaged" means a student who:

(a) is eligible to receive free lunch;

(b) is eligible to receive reduced price lunch; or

- (c) (i) is not otherwise accounted for in Subsection (2)(a) or (b); and
- (ii) (A) is enrolled in a Provision 2 or Provision 3 school, as defined by the United States Department of Agriculture;
- (B) has a Declaration of Household Income on file;
- (C) is eligible for a fee waiver; or
- (D) is enrolled at a school that does not offer a lunch program and is a sibling of a student accounted for in Subsection (2)(a) or (b).
- (3) "Eligible home-based educational technology provider" means a provider that intends to offer a home-based educational technology program.
- (4) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.
- (5) (a) "Eligible private provider" means a child care program that:
 - (i) (A) except as provided in Subsection (5)(b), is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or
 - (B) is exempt from licensure under Section 26-39-403; and
 - (ii) meets other criteria as established by the board, consistent with Utah Constitution, Article X, Section 1.
- (b) "Eligible private provider" does not include residential child care, as defined in Section 26-39-102.
- (6) "Eligible student" means a student who is economically disadvantaged.
- (7) "Local Education Agency" or "LEA" means a school district or charter school.
- (8) "Performance outcome measure" means a cost avoidance in special education use for a student at-risk for later special education placement in kindergarten through grade 12 who receives preschool education funded pursuant to a results-based school readiness contract.
- (9) (a) "Private entity" means a private investor or investors that enter into a results-based school readiness contract.
- (b) "Private entity" includes an authorized representative of the private investor or investors.
- (10) "Results-based school readiness contract" means a contract entered into by the board, a private entity, and a provider of early childhood education that may result in repayment to a private entity if certain performance outcome measures are achieved.
- (11) "Student at-risk for later special education placement" means a preschool student who, at preschool entry, scores at or below two standard deviations below the mean on the assessment selected by the board under Section 53A-1b-110.

Enacted by Chapter 304, 2014 General Session

53A-1b-103. Establishment of the School Readiness Board -- Membership.

- (1) There is created a School Readiness Board within the Governor's Office of Management and Budget composed of:
 - (a) the director of the Department of Workforces Services or the director's designee;
 - (b) one member appointed by the State Board of Education;

- (c) one member appointed by the chair of the State Charter School Board;
- (d) one member appointed by the speaker of the House of Representatives; and
- (e) one member appointed by the president of the Senate.

(2) (a) A member described in Subsections (1)(c), (d), and (e) shall serve for a term of two years.

(b) If a vacancy occurs for a member described in Subsection (1)(c), (d), or (e), the person appointing the member shall appoint a replacement to serve the remainder of the member's term.

(3) A member may not receive compensation or benefits for the member's service.

(4) Upon request, the Governor's Office of Management and Budget shall provide staff support to the board.

(5) (a) The board members shall elect a chair of the board from the board's membership.

(b) The board shall meet upon the call of the chair or a majority of the board members.

Enacted by Chapter 304, 2014 General Session

53A-1b-104. School Readiness Restricted Account -- Creation -- Funding -- Distribution of funds.

(1) There is created in the General Fund a restricted account known as the "School Readiness Restricted Account" to fund:

(a) the High Quality School Readiness Grant Program described in Section 53A-1b-106; and

(b) results-based school readiness contracts for eligible students to participate in:

(i) a high quality preschool program described in:

(A) Section 53A-1b-107; or

(B) Section 53A-1b-108; or

(ii) an eligible home-based educational technology program described in Section 53A-1b-109.

(2) The restricted account consists of:

(a) money appropriated to the restricted account by the Legislature;

(b) all income and interest derived from the deposit and investment of money in the account;

(c) federal grants; and

(d) private donations.

(3) Subject to legislative appropriations, money in the restricted account may be used for the following purposes:

(a) to award grants under the High Quality School Readiness Grant Program described in Section 53A-1b-106;

(b) to contract with an independent evaluator as required in Subsection 53A-1b-110(3);

(c) in accordance with Section 53A-1b-110, to make payments to one or more private entities that the board has entered into a results-based contract with if the

independent evaluator selected by the board determines that the performance-based results have been met; and

(d) for administration costs and to monitor the programs described in this part.

Enacted by Chapter 304, 2014 General Session

53A-1b-105. Elements of a high quality school readiness program.

(1) A high quality school readiness program run by an eligible LEA or eligible private provider shall include the following components:

(a) an evidence-based curriculum that is aligned with all of the developmental domains and academic content areas defined in the Utah Early Childhood Standards adopted by the State Board of Education, and incorporates intentional and differentiated instruction in whole group, small group, and child-directed learning, including the following academic content areas:

- (i) oral language and listening comprehension;
- (ii) phonological awareness and prereading;
- (iii) alphabet and word knowledge;
- (iv) prewriting;
- (v) book knowledge and print awareness;
- (vi) numeracy;
- (vii) creative arts;
- (viii) science and technology; and
- (ix) social studies, health, and safety;

(b) ongoing, focused, and intensive professional development for staff of the school readiness program;

(c) ongoing assessment of a student's educational growth and developmental progress to inform instruction;

(d) a pre- and post-assessment, selected by the board in accordance with Section 53A-1b-110, of each student;

(e) for a preschool program run by an eligible LEA, a class size that does not exceed 20 students, with one adult for every 10 students in the class;

(f) ongoing program evaluation and data collection to monitor program goal achievement and implementation of required program components;

(g) family engagement, including ongoing communication between home and school, and parent education opportunities based on each family's circumstances;

(h) for a preschool program run by an eligible LEA, each teacher having at least obtained:

- (i) the minimum standard of a child development associate certification; or
- (ii) an associate or bachelor's degree in an early childhood education related field; and

(i) for a preschool program run by an eligible private provider, by a teacher's second year, each teacher having at least obtained:

- (i) the minimum standard of a child development associate certification; or
- (ii) an associate or bachelor's degree in an early childhood education related field.

(2) A high quality school readiness program run by a home-based educational

technology provider shall:

- (a) be an evidence-based and age appropriate individualized interactive instruction assessment and feedback technology program that teaches eligible students early learning skills needed to be successful upon entry into kindergarten;
- (b) require regular parental engagement with the student in the student's use of the home-based educational technology program;
- (c) be aligned with the Utah early childhood core standards;
- (d) require the administration of the pre- and post-assessment, designated by the board in accordance with Section 53A-1b-110, of each eligible student; and
- (e) require technology providers to ensure successful implementation and utilization of the technology program.

Enacted by Chapter 304, 2014 General Session

53A-1b-106. High Quality School Readiness Grant Program.

(1) The High Quality School Readiness Grant Program is created to provide grants to the following, in order to upgrade an existing preschool or home-based technology program to a high quality school readiness program:

- (a) an eligible private provider;
- (b) an eligible LEA; or
- (c) an eligible home-based educational technology provider.

(2) The State Board of Education shall:

- (a) solicit proposals from eligible LEAs; and
- (b) make recommendations to the board to award grants to respondents based on criteria described in Subsection (5).

(3) The Department of Workforce Services shall:

- (a) solicit proposals from eligible private providers and eligible home-based educational technology providers; and
- (b) make recommendations to the board to award grants to respondents based on criteria described in Subsection (5).

(4) Subject to legislative appropriations, the board shall award grants to respondents based on:

- (a) the recommendations of the State Board of Education;
- (b) the recommendations of the Department of Workforce Services; and
- (c) the criteria described in Subsection (5).

(5) (a) In awarding a grant under Subsection (4), the State Board of Education, Department of Workforce Services, and the board shall consider:

- (i) a respondent's capacity to effectively implement the components described in Section 53A-1b-105;
- (ii) the percentage of a respondent's students who are economically disadvantaged; and
- (iii) the level of administrative support and leadership at a respondent's program to effectively implement, monitor, and evaluate the program.

(b) The board may not award a grant to an LEA without obtaining approval from the State Board of Education to award the grant to the LEA.

(6) To receive a grant under this section, a respondent that is an eligible LEA

shall submit a proposal to the State Board of Education detailing:

- (a) the respondent's strategy to implement the high quality components described in Subsection 53A-1b-105(1);

- (b) the number of students the respondent plans to serve, categorized by age and economically disadvantaged status;

- (c) the number of high quality preschool classrooms the respondent plans to operate; and

- (d) the estimated cost per student.

(7) To receive a grant under this section, a respondent that is an eligible private provider or an eligible home-based educational technology provider shall submit a proposal to the Department of Workforce Services detailing:

- (a) the respondent's strategy to implement the high quality components described in Section 53A-1b-105;

- (b) the number of students the respondent plans to serve, categorized by age and economically disadvantaged status;

- (c) for a respondent that is an eligible private provider, the number of high quality preschool classrooms the respondent plans to operate; and

- (d) the estimated cost per student.

(8) All recipients of grants under this section shall establish a preschool or home-based educational technology program with the components described in Section 53A-1b-105.

(9) (a) A grant recipient shall allow classroom or other visits by an independent evaluator chosen by the board in accordance with Section 53A-1b-110.

(b) The independent evaluator shall:

- (i) determine whether a grant recipient has effectively implemented the components described in Section 53A-1b-105; and

- (ii) report the independent evaluator's findings to the board.

(10) (a) A grant recipient that is an eligible LEA shall assign a statewide unique student identifier to each eligible student funded pursuant to a grant received under this section.

- (b) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall work in conjunction with the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a grant received under this section.

(11) A grant recipient that is an LEA shall report annually to the board and the State Board of Education the following:

- (a) number of students served by the preschool, reported by economically disadvantaged status;

- (b) attendance;

- (c) cost per student; and

- (d) assessment results.

(12) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall report annually to the board and the Department of Workforce Services the following:

- (a) number of students served by the preschool or program, reported by economically disadvantaged status;

- (b) attendance;
- (c) cost per student; and
- (d) assessment results.

(13) The State Board of Education and the Department of Workforce Services shall make rules to effectively administer and monitor the High Quality School Readiness Grant Program, including:

- (a) requiring grant recipients to use the pre- and post-assessment selected by the board in accordance with Section 53A-1b-110; and
- (b) establishing reporting requirements for grant recipients.

(14) At the request of the board, the State Board of Education and the Department of Workforce Services shall annually share the information received from grant recipients described in Subsections (11) and (12) with the board.

Enacted by Chapter 304, 2014 General Session

53A-1b-107. High quality preschool programs for eligible LEAs.

(1) To receive funding pursuant to a results-based contract awarded under Section 53A-1b-110, an eligible LEA shall establish or currently operate a high quality preschool with the components described in Subsection 53A-1b-105(1).

(2) An eligible LEA shall assign a statewide unique student identifier to each eligible student funded pursuant to a results-based contract issued under this part.

(3) An eligible LEA may not use funds awarded pursuant to a results-based contract to supplant funds for an existing high quality preschool program, but may use the funds to supplement an existing high quality preschool program.

(4) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301-6578, an LEA may charge a sliding scale fee to a student participating in a high quality preschool program under this section, based on household income.

(5) An LEA that receives funds under this section shall report annually to the board the de-identified information described in Section 53A-1b-111.

(6) (a) An eligible LEA may contract with an eligible private provider to provide the high quality preschool program to a portion of the LEA's eligible students funded by a results-based contract.

(b) The board shall determine in a results-based contract the portion of an LEA's eligible students funded by the results-based contract to be served by an eligible private provider.

(7) To receive funding pursuant to a results-based contract, an eligible private provider shall:

(a) offer a preschool program that contains the components described in Subsection 53A-1b-105(1);

(b) allow classroom visits by the evaluator chosen in accordance with Section 53A-1b-110 and the private entity, to ensure the components described in this section are implemented;

(c) allow the evaluator chosen in accordance with Section 53A-1b-110 to administer the required pre- and post-assessments to eligible students funded under this part; and

(d) report the information described in Section 53A-1b-111 to the board and the

contracting LEA.

(8) An LEA may provide the eligible private provider with:

- (a) professional development;
- (b) staffing or staff support;
- (c) materials; and
- (d) assessments.

(9) (a) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301-6578, an eligible private provider may charge a sliding scale fee to a student participating in a high quality preschool program under this section, based on household income.

(b) The eligible private provider may use grants, scholarships, or other funds to help fund the preschool program.

(10) A contractual partnership established under Subsection (6) shall be consistent with Utah Constitution, Article X, Section 1.

(11) The evaluator selected pursuant to Section 53A-1b-110 shall annually evaluate:

(a) the quality and outcomes of the high quality preschool program funded by a results-based contract between a private entity and the board, including:

(i) adherence to required components described in Subsection 53A-1b-105(1); and

(ii) the pre- and post-assessment results of the assessment, designated by the board under Section 53A-1b-110, of eligible students in the high quality preschool program; and

(b) whether the performance outcome measures set in the results-based contract have been met, using de-identified data reported in Section 53A-1b-111.

Enacted by Chapter 304, 2014 General Session

53A-1b-108. High quality preschool programs for eligible private providers.

(1) To receive funding pursuant to a results-based contract awarded under Section 53A-1b-110, an eligible private provider shall:

(a) establish or currently operate a high quality preschool with the components described in Subsection 53A-1b-105(1);

(b) allow classroom visits by the evaluator chosen in accordance with Section 53A-1b-110 and the private entity, to ensure the components described in Subsection 53A-1b-105(1) are being implemented; and

(c) allow the evaluator chosen in accordance with Section 53A-1b-110 to administer the required pre- and post-assessments to eligible students funded under this part.

(2) An eligible private provider shall work in conjunction with the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a results-based contract.

(3) An eligible private provider may not use funds awarded pursuant to a results-based contract to supplant funds for an existing high quality preschool program, but may use the funds to supplement an existing high quality preschool program.

(4) (a) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301-6578, an eligible private provider may charge a sliding scale fee to a student participating in a high quality preschool program under this section, based on household income.

(b) The eligible private provider may use grants, scholarships, or other funds to help fund the preschool program.

(5) An eligible private provider that receives funds under this section shall report annually to the board the de-identified information described in Section 53A-1b-111.

(6) The State Board of Education shall annually share with the board aggregated longitudinal data on eligible students currently receiving funding under this section and any eligible students who previously received funding under this section, including:

(a) academic achievement outcomes;

(b) special education use; and

(c) English language learner services.

(7) The evaluator selected pursuant to Section 53A-1b-110 shall annually evaluate:

(a) the quality and outcomes of a high quality preschool program funded by a results-based contract between a private entity and the board, including:

(i) adherence to required components described in Subsection 53A-1b-105(1); and

(ii) the pre- and post-assessment results of the assessment, designated by the board under Section 53A-1b-110, of eligible students in the high quality preschool program; and

(b) whether the performance outcome measures set in the results-based contract have been met, using de-identified or aggregated data reported in Subsections (5) and (6).

Enacted by Chapter 304, 2014 General Session

53A-1b-109. Home-based educational technology for school readiness.

(1) To receive funding pursuant to a results-based contract awarded under Section 53A-1b-110, an eligible home-based educational technology provider shall administer a home-based educational technology program designed to prepare eligible students for kindergarten.

(2) An eligible home-based educational technology provider described in Subsection (1) shall establish or currently operate a high quality school readiness program with the components described in Subsection 53A-1b-105(2).

(3) An eligible home-based educational technology provider shall work in conjunction with the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a results-based contract.

(4) An eligible home-based educational technology provider that receives funds under this section shall report annually to the board the following de-identified information for eligible students funded in whole or in part pursuant to a results-based contract:

(a) number of eligible students served by the home-based educational

technology program, reported by economically disadvantaged status and English language learner status;

(b) average time, and range of time usage, an eligible student spent using the program per week;

(c) cost per eligible student;

(d) assessment results of the pre- and post-assessments selected by the board; and

(e) number of eligible students served by the home-based educational technology program who participated in any other public or private preschool program, including the type of preschool attended.

(5) The State Board of Education shall annually share with the board aggregated longitudinal data on eligible students currently receiving funding under this section and any eligible students who previously received funding under this section, including:

(a) academic achievement outcomes;

(b) special education use; and

(c) English language learner services.

(6) The evaluator selected pursuant to Section 53A-1b-110 shall annually evaluate:

(a) the quality and outcomes of a home-based educational technology program funded by a results-based contract between a private entity and the board, including the pre- and post-assessment results, on the assessment designated by the board under Section 53A-1b-110, of eligible students in the program; and

(b) whether the performance outcome measures set in the results-based contract have been met, using de-identified or aggregated data reported in Subsections (4) and (5).

Enacted by Chapter 304, 2014 General Session

53A-1b-110. Results-based school readiness contracts -- Board duties -- Independent evaluator.

(1) (a) The board may negotiate and enter into a results-based contract with a private entity, selected through a competitive process, to fund:

(i) a high quality preschool program described in Section 53A-1b-107;

(ii) a high quality preschool program described in Section 53A-1b-108; or

(iii) a home-based education technology program described in Section 53A-1b-109.

(b) The board may not issue a results-based contract if the total outstanding obligations of results-based contracts issued by the board under this part would exceed \$15,000,000 at any one time.

(c) The board may provide for a repayment to a private entity to include a return of investment and an additional return on investment, dependent on achievement of specific performance outcome measures set in the results-based contract.

(d) The additional return on investment described in Subsection (1)(c) may not exceed 5% above the current Municipal Market Data General Obligation Bond AAA scale for a 10 year maturity at the time of the issuance of the results-based school

readiness contract.

(e) Funding obtained for an early education program under this part is not a procurement item under Section 63G-6a-103.

(2) A contract shall include:

(a) a requirement that the repayment to the private entity be conditioned on specific performance outcome measures set in the results-based contract;

(b) a requirement for an independent evaluator to determine whether the performance outcomes have been achieved;

(c) a provision that repayment to the private entity is:

(i) based upon available money in the School Readiness Restricted Account;

and

(ii) subject to legislative appropriation; and

(d) that the private entity is not eligible to receive or view any personally identifiable student data of students funded through a results-based contract.

(3) The board shall select an independent, nationally recognized early childhood education evaluator, selected through a request for proposals process, to annually evaluate:

(a) performance outcome measures set in a results-based contract of the board;

and

(b) a High Quality School Readiness Grant Program recipient's program.

(4) The board shall select a uniform assessment of age-appropriate cognitive or language skills that:

(a) is nationally norm-referenced;

(b) has established reliability;

(c) has established validity with other similar measures and with later school outcomes; and

(d) has strong psychometric characteristics.

(5) (a) At the end of each year of a results-based contract after a student funded through a results-based contract completes kindergarten, the independent evaluator shall determine whether the performance outcome measures set in the results-based contract have been met.

(b) If the independent evaluator determines under Subsection (5)(a) that the performance outcome measures have been met, the board may pay the private entity according to the terms of the results-based contract.

(6) (a) The board shall ensure that a parent or guardian of an eligible student participating in a program funded pursuant to a results-based contract has given permission and signed an acknowledgment that the student's data may be shared with an independent evaluator for research and evaluation purposes.

(b) The board shall maintain documentation of parental permission required in Subsection (6)(a).

Enacted by Chapter 304, 2014 General Session

53A-1b-111. Reporting requirements for recipients of a results-based school readiness contract -- Reporting requirements for the School Readiness Board.

(1) An eligible LEA, eligible private provider, or eligible home-based educational technology provider that receives funds pursuant to a results-based contract under this part shall report annually to the board the following de-identified information for eligible students funded in whole or in part pursuant to a results-based contract:

(a) number of eligible students served by the recipient's preschool or home-based educational technology program, reported by economically disadvantaged status and English language learner status;

(b) attendance;

(c) cost per eligible student;

(d) assessment results of the pre- and post-assessments selected by the board;

and

(e) aggregated longitudinal data on eligible students currently receiving funding under this part and any eligible students who previously received funding under this part, including:

(i) academic achievement outcomes;

(ii) special education use; and

(iii) English language learner services.

(2) For each year of a results-based contract, the board shall report to the Education Interim Committee the following:

(a) information collected under Subsection (1) for each participating LEA, private provider, and home-based educational technology provider; and

(b) the terms of the results-based contract, including:

(i) the name of each private entity and funding source;

(ii) the amount of money each private entity has invested;

(iii) the performance outcome measures set in the results-based contract by which repayment will be determined; and

(iv) the repayment schedule to the private entity if the performance outcomes are met.

Enacted by Chapter 304, 2014 General Session

53A-2-101. School districts.

School districts may be created, merged, dissolved, or their boundaries changed only as provided in this chapter.

Enacted by Chapter 2, 1988 General Session

53A-2-101.5. Filing of notice and plat relating to school district boundary changes including creation, consolidation, division, or dissolution -- Recording requirements -- Effective date.

(1) The county legislative body shall:

(a) within 30 days after the creation, consolidation, division, or dissolution of a school district, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) except in the case of a dissolution, a copy of an approved final local entity

plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5:

(i) if the school district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary action; and

(III) except in the case of dissolution, approved final local entity plat; and

(B) if applicable, a certified copy of the resolution approving the boundary action;

or

(ii) if the school district is or, in the case of a dissolution, was located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (1)(b)(i)(A)(I), (II), and (III);

and

(II) if applicable, a certified copy of the resolution approving the boundary action;

and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (1)(b)(i)(A)(I), (II), and (III); and

(II) if applicable, a certified copy of the resolution approving the boundary action.

(2) (a) Upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the creation, consolidation, division, dissolution, or other change affecting the boundary of a new or existing school district that was the subject of the action has legal effect.

(b) (i) As used in this Subsection (2)(b), "affected area" means:

(A) in the case of the creation of a school district, the area within the school district's boundary;

(B) in the case of the consolidation of multiple school districts, the area within the boundary of each school district that is consolidated into another school district;

(C) in the case of the division of a school district, the area within the boundary of the school district created by the division; and

(D) in the case of an addition to an existing school district, the area added to the school district.

(ii) The effective date of a boundary action, as defined in Section 17-23-20, for purposes of assessing property within the school district is governed by Section 59-2-305.5.

(iii) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a school district may not levy or collect a property tax on property within the affected area.

Amended by Chapter 350, 2009 General Session

53A-2-102. Consolidation of school districts -- Resolution by school board members -- Petition by electors -- Election.

(1) Two or more school districts may unite and form a single school district in one of the following ways:

(a) a majority of the members of each of the boards of education of the affected districts shall approve and present to the county legislative body of the affected counties a resolution to consolidate the districts. Once this is done, consolidation shall be established under this chapter; or

(b) a majority of the members of the board of education of each affected district, or 15% of the qualified electors in each of the affected districts, shall sign and present a petition to the county legislative body of each affected county. The question shall be voted upon at an election called for that purpose, which shall be the next general or municipal election. Consolidation shall occur if a majority of those voting on the question in each district favor consolidation.

(2) The elections required under Subsection (1)(b) shall be conducted and the returns canvassed as provided by election laws.

Amended by Chapter 227, 1993 General Session

53A-2-103. Transfer of property to new school district -- Rights and obligations of new school board -- Outstanding indebtedness -- Special tax.

(1) On July 1 following the approval of the creation of a new school district under Section 53A-2-102, the local school boards of the former districts shall convey and deliver all school property to the local school board of the new district. Title vests in the new board. All rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property vest at once in the new board.

(2) The new board may bring and maintain actions to recover, protect, and preserve the property and rights of the district schools and to enforce contracts.

(3) The new board shall assume and be liable for all outstanding debts and obligations of each of the former school districts.

(4) All of the bonded indebtedness, outstanding debts, and obligations of a former district, which cannot be reasonably paid from the assets of the former district, shall be paid by a special tax levied by the new board as needed. The tax shall be levied upon the property within the former district which was liable for the indebtedness at the time of consolidation. If bonds are approved in the new district under Section 53A-18-102, the special tax shall be discontinued and the bonded indebtedness paid as any other bonded indebtedness of the new district.

(5) Bonded indebtedness of a former district which has been refunded shall be paid in the same manner as that which the new district assumes under Section 53A-18-101.

(6) State funds received by the new district under Section 53A-21-202 may be applied toward the payment of outstanding bonded indebtedness of a former district in the same proportion as the bonded indebtedness of the territory within the former district bears to the total bonded indebtedness of the districts combined.

Amended by Chapter 236, 2008 General Session

53A-2-104. Transfer of a portion of a school district -- Board resolution -- Board petition -- Elector petition -- Transfer election.

(1) Part of a school district may be transferred to another district in one of the following ways:

(a) presentation to the county legislative body of each of the affected counties of a resolution requesting the transfer, approved by at least four-fifths of the members of the local board of education of each affected school district;

(b) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by a majority of the members of the local school board of each affected school district; or

(c) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by 15% of the qualified electors in each of the affected school districts within that county.

(2) (a) If an annexation of property by a city would result in its residents being served by more than one school district, then the presidents of the affected local school boards shall meet within 60 days prior to the effective date of the annexation to determine whether it would be advisable to adjust school district boundaries to permit all residents of the expanded city to be served by a single school district.

(b) Upon conclusion of the meeting, the local school board presidents shall prepare a recommendation for presentation to their respective boards as soon as reasonably possible.

(c) The boards may then initiate realignment proceedings under Subsection (1)(a) or (b).

(d) If a local board rejects realignment under Subsection (1)(a) or (b), the other board may initiate the following procedures by majority vote within 60 days of the vote rejecting realignment:

(i) (A) within 30 days after a vote to initiate these procedures, each local board shall appoint one member to a boundary review committee; or

(B) if the local board becomes deadlocked in selecting the appointee under Subsection (2)(d)(i)(A), the board's chair shall make the appointment or serve as the appointee to the review committee.

(ii) The two local board-appointed members of the committee shall meet and appoint a third member of the committee.

(iii) If the two local board-appointed members are unable to agree on the appointment of a third member within 30 days after both are appointed, the State Superintendent of Public Instruction shall appoint the third member.

(iv) The committee shall meet as necessary to prepare recommendations concerning resolution of the realignment issue, and shall submit the recommendations to the affected local boards within six months after the appointment of the third member of the committee.

(v) If a majority of the members of each local board accepts the recommendation of the committee, or accepts the recommendation after amendment by the boards, then the accepted recommendation shall be implemented.

(vi) If the committee fails to submit its recommendation within the time allotted, or if one local board rejects the recommendation, the affected boards may agree to extend the time for the committee to prepare an acceptable recommendation or either

board may request the State Board of Education to resolve the question.

(vii) If the committee has submitted a recommendation which the state board finds to be reasonably supported by the evidence, the state board shall adopt the committee's recommendation.

(viii) The decision of the state board is final.

(3) (a) The electors of each affected district shall vote on the transfer requested under Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general election.

(b) The election shall be conducted and the returns canvassed as provided by election law.

(c) A transfer is effected only if a majority of votes cast by the electors in both the proposed transferor district and in the proposed transferee district are in favor of the transfer.

Amended by Chapter 215, 2007 General Session

53A-2-105. Transfer of school property -- Indebtedness on transferred property.

(1) If a transfer of a portion of one school district to another school district is approved under Section 53A-2-104, the state superintendent and the superintendents and presidents of the boards of education of each of the affected school districts shall determine the basis for a transfer of all school property reasonably and fairly allocable to that portion being transferred.

(2) (a) Title to property transferred vests in the transferee board of education.

(b) The transfer of a school building that is in operation at the time of determination shall be made at the close of a fiscal year.

(c) The transfer of all other school property shall be made five days after approval of the transfer of territory under Section 53A-2-104.

(3) (a) The individuals referred to in Subsection (1) shall determine the portion of bonded indebtedness and other indebtedness of the transferor board for which the transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor board.

(b) This is done by:

(i) determining the amount of the outstanding bonded indebtedness and other indebtedness of the transferor board of education;

(ii) determining the total taxable value of the property of the transferor district and the taxable value of the property to be transferred; and

(iii) calculating the portion of the indebtedness of the transferor board for which the transferred portion retains liability.

(4) (a) The agreement reflecting these determinations takes effect upon being filed with the State Board of Education.

(b) The transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor school board.

(c) The transferee school board may assume the obligation to pay the proportionate share of the transferor school board's indebtedness that has been determined under Subsection (3) to be the obligation of the transferred portion by the

approval of a resolution by a majority of the qualified electors of the transferee school district at an election called and held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(5) If the transferee school district assumes the obligation to pay this proportionate share of the transferor school board's indebtedness, the transferee school board shall levy a tax in the whole of the transferee district, including the transferred portion, sufficient to pay the assumed indebtedness, and shall turn over the proceeds of the tax to the business administrator of the transferor board.

(6) If the transferee school board does not assume this obligation, the transferee school board shall levy a tax on the transferred territory sufficient to pay the proportionate share of the indebtedness determined under this section, and shall turn over the proceeds of the tax to the business administrator of the transferor board.

(7) For the purposes of school districts affected by repealed laws governing the annexation of an unincorporated area of a school district by a city which included what was formerly known as a city school district, transitions of unincorporated areas and property from the transferor district to the transferee district in progress on the effective date of this act shall revert to the boundaries and ownership prior to the initiation of annexation and may then proceed under this section and Section 53A-2-104.

Amended by Chapter 215, 2007 General Session

53A-2-108. School districts independent of municipal and county governments -- School district name -- Control of property.

(1) (a) Each school district shall be controlled by its board of education and shall be independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000 shall comply with Subsection 17-50-103(2)(a).

(2) The local school board shall have direction and control of all school property in the district.

Amended by Chapter 185, 2000 General Session

53A-2-111. Legislative findings.

The Legislature finds that restructuring and consolidation of school districts may provide long-term educational and financial benefits, but that short-term costs and other problems may make it difficult for school officials to move forward with such plans. The Legislature therefore adopts Sections 53A-2-111 through 53A-2-116 to assist the public school system to create more efficient and effective administrative units.

Enacted by Chapter 49, 1988 General Session

53A-2-112. Definitions.

As used in Sections 53A-2-113 through 53A-2-116:

(1) "Consolidation" means the merger of two or more school districts into a single administrative unit.

(2) "Restructuring" means the transfer of territory from one school district to

another school district.

Enacted by Chapter 49, 1988 General Session

53A-2-113. School district consolidation -- State funding of consolidated districts.

When districts consolidate, payments made by the state under Title 53A, Chapter 17a, Minimum School Program Act, shall continue for a period of five years from the date of consolidation on the same basis as if no consolidation had occurred. At the end of the five-year period, the consolidated district shall receive funding as a single district.

Amended by Chapter 4, 1993 General Session

53A-2-114. Additional levies -- School board options to abolish or continue after consolidation.

(1) If a school district that has approved an additional levy under Section 53A-17a-133 is consolidated with a district which does not have such a levy, the board of education of the consolidated district may choose to abolish the levy, or apply it in whole or in part to the entire consolidated district.

(2) If the board chooses to apply any part of the levy to the entire district, the levy may continue in force for no more than three years, unless approved by the electors of the consolidated district in the manner set forth in Section 53A-17a-133.

Amended by Chapter 371, 2011 General Session

53A-2-115. Additional levies in transferred territory -- Transferee board option to abolish or continue.

If two or more districts undergo restructuring that results in a district receiving territory that increases the population of the district by at least 25%, and if the transferred territory was, at the time of transfer, subject to an additional levy under Section 53A-17a-133, the board of education of the transferee district may abolish the levy or apply the levy in whole or in part to the entire restructured district. Any such levy made applicable to the entire district may continue in force for no more than five years, unless approved by the electors of the restructured district in the manner set forth in Section 53A-17a-133.

Amended by Chapter 371, 2011 General Session

53A-2-116. Rights of transferred employees -- Salary during first year -- Leave and tenure benefits.

(1) If a school employee is transferred from one district to another because of district consolidation or restructuring, the employee's salary may not be less, during the first year after the transfer, than it would have been had the transfer not taken place.

(2) The district to which an employee is transferred under Subsection (1) shall credit the employee with all accumulated leave and tenure recognized by the district

from which the employee was transferred.

(3) If the district to which an employee is transferred does not have a leave benefit which reasonably corresponds to one the employee seeks to transfer, that district shall compensate the employee for the benefit on the same basis as would have been done had the employee retired.

Enacted by Chapter 49, 1988 General Session

53A-2-117. Definitions.

As used in Sections 53A-2-117 through 53A-2-122, except Section 53A-2-118.4:

(1) "Allocation date" means:

(a) June 30 of the second calendar year after the local school board general election date described in Subsection 53A-2-118.1(3)(a)(i); or

(b) another date that the transition teams under Section 53A-2-118.1 mutually agree to.

(2) "Canvass date" means the date of the canvass of an election under Subsection 53A-2-118(5) at which voters approve the creation of a new school district under Section 53A-2-118.1.

(3) "Creation election date" means the date of the election under Subsection 53A-2-118(5) at which voters approve the creation of a new school district under Section 53A-2-118.1.

(4) "Divided school district, "existing district," or "existing school district" means a school district from which a new district is created.

(5) "New district" or "new school district" means a school district created under Section 53A-2-118 or 53A-2-118.1.

(6) "Remaining district" or "remaining school district" means an existing district after the creation of a new district.

Amended by Chapter 300, 2011 General Session

Amended by Chapter 369, 2011 General Session

53A-2-118. Creation of new school district -- Initiation of process -- Procedures to be followed.

(1) A new school district may be created from one or more existing school districts, as provided in this section.

(2) (a) The process to create a new school district may be initiated:

(i) through a citizens' initiative petition;

(ii) at the request of the board of the existing district or districts to be affected by the creation of the new district; or

(iii) at the request of a city within the boundaries of the school district or at the request of interlocal agreement participants, pursuant to Section 53A-2-118.1.

(b) (i) Each petition submitted under Subsection (2)(a)(i) shall be signed by qualified electors residing within the geographical boundaries of the proposed new school district equal in number to at least 15% of the number of electors in the area who voted for the office of governor at the last regular general election.

(ii) Each request or petition submitted under Subsection (2)(a) shall:

(A) be filed with the clerk of each county in which any part of the proposed new school district is located;

(B) indicate the typed or printed name and current residence address of each governing board member making a request, or registered voter signing a petition, as the case may be;

(C) describe the proposed new school district boundaries; and

(D) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each.

(c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the petition by filing a written withdrawal or reinstatement with the county clerk.

(d) The process under Subsection (2)(a)(i) may only be initiated once during any four-year period.

(e) A new district may not be formed pursuant to Subsection (2)(a) if the student population of the proposed new district is less than 3,000 or the existing district's student population would be less than 3,000 because of the creation of the new school district.

(f) Within 45 days after the filing of a petition under Subsection (2)(a)(i) or five business days after the filing of a request under Subsection (2)(a)(ii) or (iii), the clerk of each county with which a request or petition is filed shall:

(i) determine whether the request or petition complies with Subsections (2)(a), (b), (d), and (e), as applicable; and

(ii) (A) if the county clerk determines that the request or petition complies with the applicable requirements:

(I) certify the request or petition and deliver the certified request or petition to the county legislative body; and

(II) mail or deliver written notification of the certification to the contact sponsor; or

(B) if the county clerk determines that the request or petition fails to comply with any of the applicable requirements, reject the request or petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(g) If the county clerk fails to certify or reject a request or petition within the time specified in Subsection (2)(f), the request or petition shall be considered to be certified.

(h) (i) If the county clerk rejects a request or petition, the request or petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(ii) Subsection (2)(d) does not apply to a request or petition that is amended and refiled after having been rejected by a county clerk.

(i) If a county legislative body receives a request from a school board under Subsection (2)(a)(ii) or a petition under Subsection (2)(a)(i) which is certified by the county clerk on or before December 1:

(i) the county legislative body shall appoint an ad hoc advisory committee, as provided by Subsection (3), on or before January 1;

(ii) the ad hoc advisory committee shall submit its report and recommendations to the county legislative body, as provided by Subsection (3), on or before July 1; and

(iii) if the legislative body of each county with which a request or petition is filed

approves a proposal to create a new district, the proposal shall be submitted to the respective county clerk to be voted on by the electors of each existing district at the regular general or municipal general election held in November.

(3) (a) The legislative body of each county with which a request or petition is filed shall appoint an ad hoc advisory committee to review and make recommendations on a request for the creation of a new school district submitted under Subsection (2)(a)(i) or (ii).

(b) The advisory committee shall:

(i) seek input from:

(A) those requesting the creation of the new school district;

(B) the school board and school personnel of each existing school district;

(C) those citizens residing within the geographical boundaries of each existing school district;

(D) the State Board of Education; and

(E) other interested parties;

(ii) review data and gather information on at least:

(A) the financial viability of the proposed new school district;

(B) the proposal's financial impact on each existing school district;

(C) the exact placement of school district boundaries; and

(D) the positive and negative effects of creating a new school district and whether the positive effects outweigh the negative if a new school district were to be created; and

(iii) make a report to the county legislative body in a public meeting on the committee's activities, together with a recommendation on whether to create a new school district.

(4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):

(a) The county legislative body shall provide for a 45-day public comment period on the report and recommendation to begin on the day the report is given under Subsection (3)(b)(iii).

(b) Within 14 days after the end of the comment period, the legislative body of each county with which a request or petition is filed shall vote on the creation of the proposed new school district.

(c) The proposal is approved if a majority of the members of the legislative body of each county with which a request or petition is filed votes in favor of the proposal.

(d) If the proposal is approved, the legislative body of each county with which a request or petition is filed shall submit the proposal to the county clerk to be voted on:

(i) by the legal voters of each existing school district;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and each remaining school district voting on the proposal vote in favor of the creation of the new district.

(f) Each county legislative body shall comply with the requirements of Section 53A-2-101.5.

(g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.

(5) (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection (2)(f) or (g), the legislative body of each county in which part of the proposed new school district is located shall submit the proposal to the respective clerk of each county to be voted on:

(i) by the legal voters residing within the proposed new school district boundaries;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(b) (i) If a majority of the legal voters within the proposed new school district boundaries voting on the proposal at an election under Subsection (5)(a) vote in favor of the creation of the new district:

(A) each county legislative body shall comply with the requirements of Section 53A-2-101.5; and

(B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the new district is created.

(ii) Notwithstanding the creation of a new district as provided in Subsection (5)(b)(i)(B):

(A) a new school district may not begin to provide educational services to the area within the new district until July 1 of the second calendar year following the school board general election date described in Subsection 53A-2-118.1(3)(a)(i);

(B) a remaining district may not begin to provide educational services to the area within the remaining district until the time specified in Subsection (5)(b)(ii)(A); and

(C) each existing district shall continue, until the time specified in Subsection (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing district.

Amended by Chapter 230, 2010 General Session

53A-2-118.1. Proposal initiated by a city or interlocal agreement participants to create a school district -- Boundaries -- Election of local school board members -- Allocation of assets and liabilities -- Startup costs -- Transfer of title.

(1) (a) After conducting a feasibility study, a city with a population of at least 50,000, as determined by the lieutenant governor using the process described in Subsection 67-1a-2(3), may by majority vote of the legislative body, submit for voter approval a measure to create a new school district with boundaries contiguous with that city's boundaries, in accordance with Section 53A-2-118.

(b) (i) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (1)(a) is within the exclusive discretion of the city's legislative body.

(ii) An inadequacy of a feasibility study under Subsection (1)(a) may not be the

basis of a legal action or other challenge to:

- (A) an election for voter approval of the creation of a new school district; or
- (B) the creation of the new school district.

(2) (a) By majority vote of the legislative body, a city of any class, a town, or a county, may, together with one or more other cities, towns, or the county enter into an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a measure to create a new school district.

(b) (i) In accordance with Section 53A-2-118, interlocal agreement participants under Subsection (2)(a) may submit a proposal for voter approval if:

(A) the interlocal agreement participants conduct a feasibility study prior to submitting the proposal to the county;

(B) the combined population within the proposed new school district boundaries is at least 50,000;

(C) the new school district boundaries:

(I) are contiguous;

(II) do not completely surround or otherwise completely geographically isolate a portion of an existing school district that is not part of the proposed new school district from the remaining part of that existing school district, except as provided in Subsection (2)(d)(iii);

(III) include the entire boundaries of each participant city or town, except as provided in Subsection (2)(d)(ii); and

(IV) subject to Subsection (2)(b)(ii), do not cross county lines; and

(D) the combined population within the proposed new school district of interlocal agreement participants that have entered into an interlocal agreement proposing to create a new school district is at least 80% of the total population of the proposed new school district.

(ii) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (2)(b)(i)(A), including whether to conduct a new feasibility study or revise a previous feasibility study due to a change in the proposed new school district boundaries, is within the exclusive discretion of the legislative bodies of the interlocal agreement participants that enter into an interlocal agreement to submit for voter approval a measure to create a new school district.

(iii) An inadequacy of a feasibility study under Subsection (2)(b)(i)(A) may not be the basis of a legal action or other challenge to:

- (A) an election for voter approval of the creation of a new school district; or
- (B) the creation of the new school district.

(iv) For purposes of determining whether the boundaries of a proposed new school district cross county lines under Subsection (2)(b)(i)(C)(IV):

(A) a municipality located in more than one county and entirely within the boundaries of a single school district is considered to be entirely within the same county as other participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's land area and population is located in that same county than outside the county; and

(B) a municipality located in more than one county that participates in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the

area within the municipality's boundaries on the basis of the exception stated in Subsection (2)(d)(ii)(B) may not be considered to cross county lines.

(c) (i) A county may only participate in an interlocal agreement under this Subsection (2) for the unincorporated areas of the county.

(ii) Boundaries of a new school district created under this section may include:

(A) a portion of one or more existing school districts; and

(B) a portion of the unincorporated area of a county, including a portion of a township.

(d) (i) As used in this Subsection (2)(d):

(A) "Isolated area" means an area that:

(I) is entirely within the boundaries of a municipality that, except for that area, is entirely within a school district different than the school district in which the area is located; and

(II) would, because of the creation of a new school district from the existing district in which the area is located, become completely geographically isolated.

(B) "Municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area.

(ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if:

(A) the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district; or

(B) (I) the portion of the municipality proposed to be included in the new school district is within the boundaries of the same school district that includes the other interlocal agreement participants; and

(II) the portion of the municipality proposed to be excluded from the new school district is within the boundaries of a school district other than the school district that includes the other interlocal agreement participants.

(iii) (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school district may be submitted for voter approval pursuant to an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, if:

(I) the potential isolated area is contiguous to one or more of the interlocal agreement participants;

(II) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to create a new school district that includes the potential isolated area; and

(III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the municipality has not entered into an interlocal agreement as requested in the request.

(B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold one or more public hearings to allow input from the public and affected school districts regarding whether or not the municipality should enter into an interlocal agreement with respect to the potential isolated area.

(C) (I) This Subsection (2)(d)(iii)(C) applies if:

(Aa) a new school district is created under this section after a measure is submitted to voters based on the authority of Subsection (2)(d)(iii)(A); and

(Bb) the creation of the new school district results in an isolated area.

(II) The isolated area shall, on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), become part of the municipality's school district.

(III) Unless the isolated area is the only remaining part of the existing district, the process described in Subsection (4) shall be modified to:

(Aa) include a third transition team, appointed by the local school board of the municipality's school district, to represent that school district; and

(Bb) require allocation of the existing district's assets and liabilities among the new district, the remaining district, and the municipality's school district.

(IV) The existing district shall continue to provide educational services to the isolated area until July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i).

(3) (a) If a proposal under this section is approved by voters:

(i) an election shall be held at the next regular general election to elect:

(A) members to the local school board of the existing school district whose terms are expiring;

(B) all members to the local school board of the new school district; and

(C) all members to the local school board of the remaining district;

(ii) the assets and liabilities of the existing school district shall be divided between the remaining school district and the new school district as provided in Subsection (5) and Section 53A-2-121;

(iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and 53A-2-122;

(iv) (A) an individual residing within the boundaries of a new school district at the time the new school district is created may, for six school years after the creation of the new school district, elect to enroll in a secondary school located outside the boundaries of the new school district if:

(I) the individual resides within the boundaries of that secondary school as of the day before the new school district is created; and

(II) the individual would have been eligible to enroll in that secondary school had the new school district not been created; and

(B) the school district in which the secondary school is located shall provide educational services, including, if provided before the creation of the new school district, busing, to each individual making an election under Subsection (3)(a)(iv)(A) for each school year for which the individual makes the election; and

(v) within one year after the new district begins providing educational services, the superintendent of each remaining district affected and the superintendent of the new district shall meet, together with the Superintendent of Public Instruction, to determine if further boundary changes should be proposed in accordance with Section 53A-2-104.

(b) (i) The terms of the initial members of the local school board of the new district and remaining district shall be staggered and adjusted by the county legislative body so that approximately half of the local school board is elected every two years.

(ii) The term of a member of the existing local school board, including a member elected under Subsection (3)(a)(i)(A), terminates on July 1 of the second year after the local school board general election date described in Subsection (3)(a)(i), regardless of when the term would otherwise have terminated.

(iii) Notwithstanding the existence of a local school board for the new district and a local school board for the remaining district under Subsection (3)(a)(i), the local school board of the existing district shall continue, until the time specified in Subsection 53A-2-118(5)(b)(ii)(A), to function and exercise authority as a local school board to the extent necessary to continue to provide educational services to the entire existing district.

(iv) A person may simultaneously serve as or be elected to be a member of the local school board of an existing district and a member of the local school board of:

- (A) a new district; or
- (B) a remaining district.

(4) (a) Within 45 days after the canvass date for the election at which voters approve the creation of a new district:

(i) a transition team to represent the remaining district shall be appointed by the members of the existing local school board who reside within the area of the remaining district, in consultation with:

(A) the legislative bodies of all municipalities in the area of the remaining district; and

(B) the legislative body of the county in which the remaining district is located, if the remaining district includes one or more unincorporated areas of the county; and

(ii) another transition team to represent the new district shall be appointed by:

(A) for a new district located entirely within the boundaries of a single city, the legislative body of that city; or

(B) for each other new district, the legislative bodies of all interlocal agreement participants.

(b) The local school board of the existing school district shall, within 60 days after the canvass date for the election at which voters approve the creation of a new district:

(i) prepare an inventory of the existing district's:

- (A) assets, both tangible and intangible, real and personal; and
- (B) liabilities; and

(ii) deliver a copy of the inventory to each of the transition teams.

(c) The transition teams appointed under Subsection (4)(a) shall:

(i) determine the allocation of the existing district's assets and, except for indebtedness under Section 53A-2-121, liabilities between the remaining district and the new district in accordance with Subsection (5);

(ii) prepare a written report detailing how the existing district's assets and, except for indebtedness under Section 53A-2-121, liabilities are to be allocated; and

(iii) deliver a copy of the written report to:

- (A) the local school board of the existing district;
- (B) the local school board of the remaining district; and
- (C) the local school board of the new district.

(d) The transition teams shall determine the allocation under Subsection (4)(c)(i)

and deliver the report required under Subsection (4)(c)(ii) before August 1 of the year following the election at which voters approve the creation of a new district, unless that deadline is extended by the mutual agreement of:

- (i) the local school board of the existing district; and
- (ii) (A) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or
- (B) the legislative bodies of all interlocal agreement participants, for each other new district.

(e) (i) All costs and expenses of the transition team that represents a remaining district shall be borne by the remaining district.

(ii) All costs and expenses of the transition team that represents a new district shall initially be borne by:

(A) the city whose legislative body appoints the transition team, if the transition team is appointed by the legislative body of a single city; or

(B) the interlocal agreement participants, if the transition team is appointed by the legislative bodies of interlocal agreement participants.

(iii) The new district may, to a maximum of \$500,000, reimburse the city or interlocal agreement participants for:

(A) transition team costs and expenses; and

(B) startup costs and expenses incurred by the city or interlocal agreement participants on behalf of the new district.

(5) (a) As used in this Subsection (5):

(i) "Associated property" means furniture, equipment, or supplies located in or specifically associated with a physical asset.

(ii) (A) "Discretionary asset or liability" means, except as provided in Subsection (5)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Discretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection (5)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Nondiscretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iv) "Physical asset" means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.

(b) Except as provided in Subsection (5)(c), the transition teams appointed under Subsection (4)(a) shall allocate all assets and liabilities the existing district owns on the allocation date, both tangible and intangible, real and personal, to the new district and remaining district as follows:

(i) a physical asset and associated property shall be allocated to the school district in which the physical asset is located;

(ii) a discretionary asset or liability shall be allocated between the new district and remaining district in proportion to the student populations of the school districts;

(iii) a nondiscretionary asset shall be allocated to the school district where the project, school, student, or employee to which the nondiscretionary asset is tied will be

located;

(iv) vehicles used for pupil transportation shall be allocated:

(A) according to the transportation needs of schools, as measured by the number and assortment of vehicles used to serve transportation routes serving schools within the new district and remaining district; and

(B) in a manner that gives each school district a fleet of vehicles for pupil transportation that is equivalent in terms of age, condition, and variety of carrying capacities; and

(v) other vehicles shall be allocated:

(A) in proportion to the student populations of the school districts; and

(B) in a manner that gives each district a fleet of vehicles that is similar in terms of age, condition, and carrying capacities.

(c) By mutual agreement, the transition teams may allocate an asset or liability in a manner different than the allocation method specified in Subsection (5)(b).

(6) (a) As used in this Subsection (6):

(i) "New district startup costs" means:

(A) costs and expenses incurred by a new district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i); and

(B) the costs and expenses of the transition team that represents the new district.

(ii) "Remaining district startup costs" means:

(A) costs and expenses incurred by a remaining district in order to:

(I) make necessary adjustments to deal with the impacts resulting from the creation of the new district; and

(II) prepare to provide educational services within the remaining district once the new district begins providing educational services within the new district; and

(B) the costs and expenses of the transition team that represents the remaining district.

(b) (i) By January 1 of the year following the local school board general election date described in Subsection (3)(a)(i), the existing district shall make half of the undistributed reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the remaining district and the new district, as provided in this Subsection (6).

(ii) The existing district may make additional funds available for the use of the remaining district and the new district beyond the amount specified in Subsection (6)(b)(i) through an interlocal agreement.

(c) The existing district shall make the money under Subsection (6)(b) available to the remaining district and the new district proportionately based on student population.

(d) The money made available under Subsection (6)(b) may be accessed and spent by:

(i) for the remaining district, the local school board of the remaining district; and

(ii) for the new district, the local school board of the new district.

(e) (i) The remaining district may use its portion of the money made available under Subsection (6)(b) to pay for remaining district startup costs.

(ii) The new district may use its portion of the money made available under

Subsection (6)(b) to pay for new district startup costs.

(7) (a) The existing district shall transfer title or, if applicable, partial title of property to the new school district in accordance with the allocation of property by the transition teams, as stated in the report under Subsection (4)(c)(ii).

(b) The existing district shall complete each transfer of title or, if applicable, partial title to real property and vehicles by July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), except as that date is changed by the mutual agreement of:

- (i) the local school board of the existing district;
- (ii) the local school board of the remaining district; and
- (iii) the local school board of the new district.

(c) The existing district shall complete the transfer of all property not included in Subsection (7)(b) by November 1 of the second calendar year after the local school board general election date described in Subsection (3)(a)(i).

(8) Except as provided in Subsections (6) and (7), after the creation election date an existing school district may not transfer or agree to transfer title to district property without the prior consent of:

(a) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or

(b) the legislative bodies of all interlocal agreement participants, for each other new district.

(9) This section does not apply to the creation of a new district initiated through a citizens' initiative petition or at the request of a local school board under Section 53A-2-118.

Amended by Chapter 300, 2011 General Session

53A-2-118.2. New school district property tax -- Limitations.

(1) (a) A new school district created under Section 53A-2-118.1 may not impose a property tax prior to the fiscal year in which the new school district assumes responsibility for providing student instruction.

(b) The remaining school district retains authority to impose property taxes on the existing school district, including the territory of the new school district, until the fiscal year in which the new school district assumes responsibility for providing student instruction.

(2) (a) If at the time a new school district created pursuant to Section 53A-2-118.1 assumes responsibility for student instruction any portion of the territory within the new school district was subject to a levy pursuant to Section 53A-17a-133, the new school district's board may:

- (i) discontinue the levy for the new school district;
- (ii) impose a levy on the new school district as provided in Section 53A-17a-133;

or

- (iii) impose the levy on the new school district, subject to Subsection (2)(b).

(b) If the new school district's board applies a levy to the new school district pursuant to Subsection (2)(a)(iii), the levy may not exceed the maximum duration or rate authorized by the voters of the existing district or districts at the time of the vote to

create the new school district.

Amended by Chapter 371, 2011 General Session

53A-2-118.4. Property tax levies in new district and remaining district -- Distribution of property tax revenue.

(1) As used in this section:

(a) "Divided school district" or "existing district" means a school district from which a new district is created.

(b) "New district" means a school district created under Section 53A-2-118.1 after May 10, 2011.

(c) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:

(i) the minimum basic rate imposed under Section 53A-17a-135;

(ii) a debt service levy imposed under Section 11-14-310; or

(iii) a judgment levy imposed under Section 59-2-1330.

(d) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.

(e) "Remaining district" means an existing district after the creation of a new district.

(2) A new district and remaining district shall, for a period of five consecutive years beginning in the qualifying taxable year, continue to impose property tax levies that were imposed by the divided school district in the taxable year prior to the qualifying taxable year.

(3) Except as provided in Subsection (6), a property tax levy that a new district and remaining district are required to impose under Subsection (2) shall be set at a rate that:

(a) is uniform in the new district and remaining district; and

(b) generates the same amount of revenue that was generated by the property tax levy within the divided school district in the taxable year prior to the qualifying taxable year.

(4) (a) Except as provided in Subsection (4)(b), the county treasurer of the county in which a property tax levy is imposed under Subsection (2) shall distribute revenues generated by the property tax levy to the new district and remaining district in proportion to the percentage of the divided school district's enrollment on the October 1 prior to the new district commencing educational services that were enrolled in schools currently located in the new district or remaining district.

(b) The county treasurer of a county of the first class shall distribute revenues generated by a capital local levy of .0006 that a school district in a county of the first class is required to impose under Section 53A-16-113 in accordance with the distribution method specified in Section 53A-16-114.

(5) On or before March 31, a county treasurer shall distribute revenues generated by a property tax levy imposed under Subsection (2) in the prior calendar year to a new district and remaining district as provided in Subsection (4).

(6) (a) Subject to the notice and public hearing requirements of Section 59-2-919, a new district or remaining district may set a property tax rate higher than the

rate required by Subsection (3), up to:

- (i) the maximum rate, if any, allowed by law; or
- (ii) the maximum rate authorized by voters for a voted local levy under Section 53A-17a-133.

(b) The revenues generated by the portion of a property tax rate in excess of the rate required by Subsection (3) shall be retained by the district that imposes the higher rate.

Amended by Chapter 116, 2012 General Session

53A-2-119. Reapportionment -- Local school board membership.

(1) Upon the creation of a new school district, the county legislative body shall reapportion the affected school districts pursuant to Section 20A-14-201.

(2) Except as provided in Section 53A-2-118.1, school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Nomination and Election of Members of Local Boards of Education.

Amended by Chapter 230, 2010 General Session

53A-2-120. Transfer of school property to new school district.

(1) (a) (i) On July 1 of the year following the school board elections for a new district created pursuant to a citizens' initiative petition or school board request under Section 53A-2-118 and an existing district as provided in Section 53A-2-119, the board of the existing district shall convey and deliver to the board of the new district all school property which the new district is entitled to receive.

(ii) Any disagreements as to the disposition of school property shall be resolved by the county legislative body.

(iii) Subsection (1)(a)(ii) does not apply to disagreements between transition teams about the proper allocation of property under Subsection 53A-2-118.1(4).

(b) An existing district shall transfer property to a new district created under Section 53A-2-118.1 in accordance with Section 53A-2-118.1.

(2) Title vests in the new school board, including all rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property.

(3) The new school board may bring and maintain actions to recover, protect, and preserve the property and rights of the district's schools and to enforce contracts.

Amended by Chapter 295, 2011 General Session

53A-2-121. Tax to pay for indebtedness of divided school district.

(1) (a) For a new district created prior to May 10, 2011, the local school boards of the remaining and new districts shall determine the portion of the divided school district's bonded indebtedness and other indebtedness for which the property within the new district remains subject to the levy of taxes to pay a proportionate share of the divided school district's outstanding indebtedness.

(b) The proportionate share of the divided school district's outstanding

indebtedness for which property within the new district remains subject to the levy of taxes shall be calculated by determining the proportion that the total assessed valuation of the property within the new district bears to the total assessed valuation of the divided school district:

- (i) in the year immediately preceding the date the new district was created; or
- (ii) at a time mutually agreed upon by the local school boards of the new district and the remaining district.

(c) The agreement reflecting the determinations made under this Subsection (1) shall take effect upon being filed with the county legislative body and the State Board of Education.

(2) (a) Except as provided in Subsection (2)(b), the local school board of a new district created prior to May 10, 2011 shall levy a tax on property within the new district sufficient to pay the new district's proportionate share of the indebtedness determined under Subsection (1).

(b) If a new district has money available to pay the new district's proportionate share of the indebtedness determined under Subsection (1), the new district may abate a property tax to the extent of money available.

(3) As used in Subsections (4) and (5), "outstanding bonded indebtedness" means debt owed for a general obligation bond issued by the divided school district:

- (a) prior to the creation of the new district; or
- (b) in accordance with a mutual agreement of the local school boards of the remaining and new districts under Subsection (6).

(4) If a new district is created on or after May 10, 2011, property within the new district and the remaining district is subject to the levy of a tax to pay the divided school district's outstanding bonded indebtedness as provided in Subsection (5).

(5) (a) Except as provided in Subsection (5)(b), the local school board of the new district and the local school board of the remaining district shall impose a tax levy at a rate that:

- (i) generates from the combined districts the amount of revenue required each year to meet the outstanding bonded indebtedness of the divided school district; and
- (ii) is uniform within the new district and remaining district.

(b) A local school board of a new district may abate a property tax required to be imposed under Subsection (5)(a) to the extent the new district has money available to pay to the remaining district the amount of revenue that would be generated within the new district from the tax rate specified in Subsection (5)(a).

(6) (a) The local school boards of the remaining and new districts shall determine by mutual agreement the disposition of bonds approved but not issued by the divided school district before the creation of the new district based primarily on the representation made to the voters at the time of the bond election.

(b) Before a determination is made under Subsection (6)(a), a remaining district may not issue bonds approved but not issued before the creation of the new district if property in the new district would be subject to the levy of a tax to pay the bonds.

Amended by Chapter 295, 2011 General Session

53A-2-122. Employees of a new district.

- (1) Upon the creation of a new district:
 - (a) an employee of an existing district who is employed at a school that is transferred to the new district shall become an employee of the new district; and
 - (b) the school board of the new district shall:
 - (i) have discretion in the hiring of all other staff;
 - (ii) adopt the personnel policies and practices of the existing district, including salary schedules and benefits; and
 - (iii) enter into agreements with employees of the new district, or their representatives, that have the same terms as those in the negotiated agreements between the existing district and its employees.
- (2) (a) Subject to Subsection (2)(b), an employee of a school district from which a new district is created who becomes an employee of the new district shall retain the same status as a career or provisional employee with accrued seniority and accrued benefits.
 - (b) Subsection (2)(a) applies to:
 - (i) employees of an existing district who are transferred to a new district pursuant to Subsection (1)(a); and
 - (ii) employees of a school district from which a new district is created who are hired by the new district within one year of the date of the creation of the new district.
- (3) An employee who is transferred to a new district pursuant to Subsection (1)(a) and is rehired by the existing district within one year of the date of the creation of the new district shall, when rehired by the existing district, retain the same status as a career or provisional employee with accrued seniority and accrued benefits.

Amended by Chapter 183, 2006 General Session

53A-2-123. Notice before preparing or amending a long-range plan or acquiring certain property.

- (1) As used in this section:
 - (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:
 - (i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or
 - (ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.
 - (b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.
- (2) (a) If a school district located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range

plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Automated Geographic Reference Center created in Section 63F-1-506;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) placed on the Utah Public Notice Website created under Section 63F-1-701;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the school district has one, and the name and telephone number of a person where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each school district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the school district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a school district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Amended by Chapter 445, 2013 General Session

53A-2-201. Child's school district of residence -- Determination -- Responsibility for providing educational services.

(1) The school district of residence of a minor child whose custodial parent or legal guardian resides within Utah is:

(a) the school district in which the custodial parent or legal guardian resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency;

(ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules of the district board of education that:

(A) the child's physical, mental, moral, or emotional health would best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist which would not permit the case to be appropriately addressed under Section 53A-2-207; and

(C) considering the child to be a resident of the district under this subsection would not violate any other law or rule of the State Board of Education; or

(iv) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.

(2) A minor child whose custodial parent or legal guardian does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the State Board of Education, if:

(a) the child is married or an emancipated minor under Subsection (1)(b)(iv); or

(b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53A-2-202; or

(c) if permissible under policies adopted by the local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health would best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the rules and policies of the school and school district in which attendance is sought.

(3) (a) If admission is sought under Subsection (1)(b)(iii), or (2)(c), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees or other charges relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53A-12-103, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(4) A power of attorney does not confer legal guardianship.

(5) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

(6) Students who were enrolled in a Utah public school by October 1, 1992, and would, but for this part, have been allowed to attend public schools without payment of tuition shall be permitted to continue their attendance until graduation or termination of enrollment on the same basis as Utah resident students.

Amended by Chapter 282, 1995 General Session

53A-2-202. Guardianship for residency purposes by responsible adult -- Procedure to obtain -- Termination.

(1) For purposes of this part, "responsible adult" means a person 21 years of age or older who is a resident of this state and is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for a minor child.

(2) A local board of education may adopt a policy permitting it to designate a responsible adult residing in the school district as legal guardian of a child whose custodial parent or legal guardian does not reside within the state upon compliance with the following requirements:

(a) submission to the school district of a signed and notarized affidavit by the child's custodial parent or legal guardian stating that:

(i) the child's presence in the district is not for the primary purpose of attending the public schools;

(ii) the child's physical, mental, moral, or emotional health would best be served by a transfer of guardianship to the Utah resident;

(iii) the affiant is aware that designation of a guardian under this section is equivalent to a court-ordered guardianship under Section 75-5-206 and will suspend or terminate any existing parental or guardianship rights in the same manner as would occur under a court-ordered guardianship;

(iv) the affiant consents and submits to any such suspension or termination of parental or guardianship rights;

(v) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(vi) the affiant designates a named responsible adult as agent, authorized to accept service on behalf of the affiant of any process, notice, or demand required or permitted to be served in connection with any action under Subsection (2)(a)(v); and

(vii) it is the affiant's intent that the child become a permanent resident of the state and reside with and be under the supervision of the named responsible adult;

(b) submission to the school district of a signed and notarized affidavit by the responsible adult stating that:

(i) the affiant is a resident of the school district and desires to become the guardian of the child;

(ii) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(iii) the affiant will accept the responsibilities of guardianship for the duration, including the responsibility to provide adequate supervision, discipline, food, shelter, educational and emotional support, and medical care for the child if designated as the child's guardian; and

(iv) the affiant accepts the designation as agent under Subsection (2)(a)(vi);

(c) submission to the school district of a signed and notarized affidavit by the child stating that:

(i) the child desires to become a permanent resident of Utah and reside with and be responsible to the named responsible adult; and

(ii) the child will abide by all applicable rules of any public school which the child may attend after guardianship is awarded; and

(d) if the child's custodial parent or legal guardian cannot be found in order to execute the statement required under Subsection (2)(a), the responsible adult must submit an affidavit to that effect to the district. The district shall also submit a copy of the statement to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(3) The district may require the responsible adult, in addition to the documents set forth in Subsection (2), to also submit any other documents which are relevant to the appointment of a guardian of a minor or which the district reasonably believes to be necessary in connection with a given application to substantiate any claim or assertion made in connection with the application for guardianship.

(4) Upon receipt of the information and documentation required under Subsections (2) and (3), and a determination by the board that the information is accurate, that the requirements of this section have been met, and that the interests of the child would best be served by granting the requested guardianship, the school board or its authorized representative may designate the applicant as guardian of the child by issuing a designation of guardianship letter to the applicant.

(5) (a) If a local school board has adopted a policy permitting the board to designate a guardian under this section, a denial of an application for appointment of a guardian may be appealed to the district court in which the school district is located.

(b) The court shall uphold the decision of the board unless it finds, by clear and convincing evidence, that the board's decision was arbitrary and capricious.

(c) An applicant may, rather than appealing the board's decision under Subsection (5)(b), file an original Petition for Appointment of Guardian with the district court, which action shall proceed as if no decision had been made by the school board.

(6) A responsible adult obtaining guardianship under this section has the same rights, authority, and responsibilities as a guardian appointed under Section 75-5-201.

(7) (a) The school district shall deliver the original documents filed with the school district, together with a copy of the designation of guardianship issued by the district, in person or by any form of mail requiring a signed receipt, to the clerk of the state district court in which the school district is located.

(b) The court may not charge the school district a fee for filing guardianship papers under this section.

(8) (a) The authority and responsibility of a custodial parent or legal guardian submitting an affidavit under this section may be restored by the district, and the guardianship obtained under this section terminated by the district:

(i) upon submission to the school district in which the guardianship was obtained of a signed and notarized statement by the person who consented to guardianship under Subsection (2)(a) requesting termination of the guardianship; or

(ii) by the person accepting guardianship under Subsection (2)(b) requesting the termination of the guardianship.

(b) If the school district determines that it would not be in the best interests of the child to terminate the guardianship, the district may refer the request for termination to the state district court in which the documents were filed under Subsection (5) for further action consistent with the interests of the child.

(9) The school district shall retain copies of all documents required by this section until the child in question has reached the age of 18 unless directed to surrender the documents by a court of competent jurisdiction.

(10) (a) Intentional submission to a school district of fraudulent or misleading information under this part is punishable under Section 76-8-504.

(b) A school district which has reason to believe that a party has intentionally submitted false or misleading information under this part may, after notice and opportunity for the party to respond to the allegation:

(i) void any guardianship, authorization, or action which was based upon the false or misleading information; and

(ii) recover, from the party submitting the information, the full cost of any benefits received by the child on the basis of the false or misleading information,

including tuition, fees, and other unpaid school charges, together with any related costs of recovery.

(c) A student whose guardianship or enrollment has been terminated under this section may, upon payment of all applicable tuition and fees, continue in enrollment until the end of the school year unless excluded from attendance for cause.

Amended by Chapter 263, 1998 General Session

53A-2-203.5. Recognition of guardianship.

(1) A document issued by other than a court of law which purports to award guardianship to a person who is not a legal resident of the jurisdiction in which the guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah court.

(2) The procedure for obtaining approval under Subsection (1) is the procedure required under Title 75, Chapter 5, Part 2, for obtaining a court appointment of a guardian.

Enacted by Chapter 124, 1998 General Session

53A-2-204. District paying tuition -- Effect on state aid.

(1) A local school board may by written agreement pay the tuition of a child attending school in a district outside the state. Both districts shall approve the agreement and file it with the State Board of Education.

(2) The average daily membership of the child may be added to that of other eligible children attending schools within the district of residence for the purpose of apportionment of state funds.

(3) The district of residence shall bear any excess tuition costs over the state's contribution for attendance in the district of residence unless otherwise approved in advance by the State Board of Education.

Enacted by Chapter 2, 1988 General Session

53A-2-205. Permitting attendance by nonresident of the state -- Tuition.

(1) A local school board may permit a child residing outside the state to attend school within the district. With the exception of a child enrolled under Section 53A-2-206, the child is not included for the purpose of apportionment of state funds.

(2) The board shall charge the nonresident child tuition at least equal to the per capita cost of the school program in which the child enrolls unless the board, in open meeting, determines to waive the charge for that child in whole or in part. The official minutes of the meeting shall reflect the determination.

Enacted by Chapter 2, 1988 General Session

53A-2-206. Interstate compact students -- Inclusion in attendance count -- Funding for foreign exchange students -- Annual report -- Requirements for exchange student agencies.

(1) A school district or charter school may include the following students in the district's or school's membership and attendance count for the purpose of apportionment of state money:

(a) a student enrolled under an interstate compact, established between the State Board of Education and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or

(b) a student receiving services under Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.

(2) (a) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2)(b) through (d).

(b) (i) Notwithstanding Section 53A-17a-106, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.

(ii) Subject to the limitation in Subsection (2)(c), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:

(A) enrolled in a school district or charter school on October 1 of the previous fiscal year; and

(B) sponsored by an agency approved by the district's local school board or charter school's governing board.

(c) (i) The total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2)(b) shall be the lesser of:

(A) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or

(B) 328 foreign exchange students.

(ii) The State Board of Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2)(b).

(d) Notwithstanding Sections 53A-17a-133 and 53A-17a-164, weighted pupil units in the grades 1 through 12 basic program for foreign exchange students, as determined by Subsections (2)(b) and (c), may not be included for the purposes of determining a school district's state guarantee money under the voted or board local levies.

(3) A school district or charter school may:

(a) enroll foreign exchange students that do not qualify for state money; and

(b) pay for the costs of those students with other funds available to the school district or charter school.

(4) Due to the benefits to all students of having the opportunity to become familiar with individuals from diverse backgrounds and cultures, school districts are encouraged to enroll foreign exchange students, as provided in Subsection (3), particularly in schools with declining or stable enrollments where the incremental cost of

enrolling the foreign exchange student may be minimal.

(5) The board shall make an annual report to the Legislature on the number of exchange students and the number of interstate compact students sent to or received from public schools outside the state.

(6) (a) A local school board or charter school governing board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.

(b) The affidavit shall include the following assurances:

(i) that the agency has complied with all applicable policies of the board;

(ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment;

(iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who are in a position of special trust;

(iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;

(v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;

(vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs; and

(vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

(7) (a) A local school board or charter school governing board shall provide each approved exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.

(b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.

(8) Notwithstanding Subsection (2)(c)(i), a school district or charter school shall enroll a foreign exchange student if the foreign exchange student:

(a) is sponsored by an agency approved by the State Board of Education;

(b) attends the same school during the same time period that another student from the school is:

(i) sponsored by the same agency; and

(ii) enrolled in a school in a foreign country; and

(c) is enrolled in the school for one year or less.

Amended by Chapter 398, 2012 General Session

53A-2-206.5. Definitions.

As used in Sections 53A-2-207 through 53A-2-213:

(1) "Early enrollment" means:

(a) except as provided in Subsection (1)(b), application prior to the third Friday in February for admission for the next school year to a school that is not a student's school of residence; and

(b) application prior to November 1 for admission for the next school year to a school that is not a student's school of residence if:

(i) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(ii) the grade reconfiguration described in Subsection (1)(b) will be implemented in the next school year.

(2) (a) "Early enrollment school capacity" or "maximum capacity" means the total number of students who could be served in a school building if each of the building's instructional stations were to have the enrollment specified in Subsection (2)(b).

(b) (i) Except as provided in Subsection (2)(b)(ii):

(A) for an elementary school, an instructional station shall have an enrollment at least equal to the school district's average class size for the corresponding grade; and

(B) for a middle, junior, or senior high school, an instructional station shall have an enrollment at least equal to the district's average class size for similar classes.

(ii) (A) A local school board shall determine the instructional station capacity for laboratories, physical education facilities, shops, study halls, self-contained special education classrooms, facilities jointly financed by the school district and another community agency for joint use, and similar rooms.

(B) Capacity for self-contained special education classrooms shall be based upon students per class as defined by State Board of Education and federal special education standards.

(3) (a) "Instructional station" means a classroom, laboratory, shop, study hall, or physical education facility to which a local board of education could reasonably assign a class, teacher, or program during a given class period.

(b) More than one instructional station may be assigned to a classroom, laboratory, shop, study hall, or physical education facility during a class period.

(4) "Late enrollment" means application:

(a) after the third Friday in February for admission for the next school year to a school that is not the student's school of residence; or

(b) for admission for the current year to a school that is not the student's school of residence.

(5) (a) "Late enrollment school capacity" or "adjusted capacity" means the total number of students who could be served in a school if each teacher were to have the class size specified in Subsection (5)(b).

(b) (i) An elementary school teacher shall have a class size at least equal to the district's average class size for the corresponding grade.

(ii) A middle, junior, or senior high school teacher shall have a class size at least equal to the district's average class size for similar classes.

(6) "Nonresident student" means a student who lives outside the boundaries of the school attendance area.

(7) "Open enrollment threshold" means:

(a) for early enrollment, a projected school enrollment level that is the greater of:

- (i) 90% of the maximum capacity; or
- (ii) maximum capacity minus 40 students; and
- (b) for late enrollment, actual school enrollment that is the greater of:
 - (i) 90% of adjusted capacity; or
 - (ii) adjusted capacity minus 40 students.
- (8) "Projected school enrollment" means the current year enrollment of a school as of October 1, adjusted for projected growth for the next school year.
- (9) "School attendance area" means an area established by a local school board from which students are assigned to attend a certain school.
- (10) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.

Amended by Chapter 67, 2012 General Session

53A-2-207. Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.

(1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the State Board of Education for each student who resides in the district and, as provided in this section through Section 53A-2-213 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district.

(2) (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.

(b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

(3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.

(4) (a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district's schools.

(b) Those procedures shall provide, as a minimum, for:

(i) distribution to interested parties of information about the school or school district and how to apply for admission;

(ii) use of standard application forms prescribed by the State Board of Education;

(iii) (A) submission of applications from December 1 through the third Friday in February by those seeking admission during the early enrollment period for the following year; or

(B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53A-2-206.5(1)(b);

(iv) submission of applications by those seeking admission during the late enrollment period;

(v) written notification to the student's parent or legal guardian of acceptance or rejection of an application:

(A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;

(B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; and

(C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year;

(vi) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and

(vii) written notification to the parents or legal guardians of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53A-2-206.5(1)(b) if:

(A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be implemented in the next school year.

(c) (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:

(A) school construction or remodeling;

(B) drawing or revision of school boundaries; or

(C) other circumstances beyond the control of the local school board.

(ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.

(5) A school district may charge a one-time \$5 processing fee, to be paid at the time of application.

(6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:

(a) the student graduates;

(b) the student is no longer a Utah resident;

(c) the student is suspended or expelled from school; or

(d) the district determines that enrollment within the school will exceed the school's open enrollment threshold.

(7) (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.

(b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.

(8) The parent or guardian of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment

in another public school by submitting notice of intent to enroll the student in:

- (a) the district of residence; or
- (b) another nonresident district.

(9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10) (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.

(b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.

(c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

(a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and

(b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. Section 675.

Amended by Chapter 67, 2012 General Session

53A-2-208. Rules for acceptance and rejection of applications.

(1) (a) A local school board shall adopt rules governing acceptance and rejection of applications required under Section 53A-2-207.

(b) The rules adopted under Subsection (1)(a) shall include policies and procedures to assure that decisions regarding enrollment requests are administered fairly without prejudice to any student or class of student, except as provided in Subsection (2).

(2) Standards for accepting or rejecting an application for enrollment may include:

- (a) for an elementary school, the capacity of the grade level;
- (b) maintenance of heterogeneous student populations if necessary to avoid violation of constitutional or statutory rights of students;

(c) not offering, or having capacity in, an elementary or secondary special education or other special program the student requires;

(d) maintenance of reduced class sizes:

(i) in a Title I school that uses federal, state, and local money to reduce class sizes for the purpose of improving student achievement; or

(ii) in a school that uses school trust money to reduce class size;

(e) willingness of prospective students to comply with district policies; and

(f) giving priority to intradistrict transfers over interdistrict transfers.

(3) (a) Standards for accepting or rejecting applications for enrollment may not include:

(i) previous academic achievement;

(ii) athletic or other extracurricular ability;

(iii) the fact that the student requires special education services for which space is available;

(iv) proficiency in the English language; or

(v) previous disciplinary proceedings, except as provided in Subsection (3)(b).

(b) A board may provide for the denial of applications from students who:

(i) have committed serious infractions of the law or school rules, including rules of the district in which enrollment is sought; or

(ii) have been guilty of chronic misbehavior which would, if it were to continue after the student was admitted:

(A) endanger persons or property;

(B) cause serious disruptions in the school; or

(C) place unreasonable burdens on school staff.

(c) A board may also provide for provisional enrollment of students with prior behavior problems, establishing conditions under which enrollment of a nonresident student would be permitted or continued.

(4) (a) The State Board of Education, in consultation with the Utah High School Activities Association, shall establish policies regarding nonresident student participation in interscholastic competition.

(b) Nonresident students shall be eligible for extracurricular activities at a public school consistent with eligibility standards as applied to students that reside within the school attendance area, except as provided by policies established under Subsection (4)(a).

(5) For each school in the district, the local school board shall post on the school district's website:

(a) the school's maximum capacity;

(b) the school's adjusted capacity;

(c) the school's projected enrollment used in the calculation of the open enrollment threshold;

(d) actual enrollment on October 1, January 2, and April 1;

(e) the number of nonresident student enrollment requests;

(f) the number of nonresident student enrollment requests accepted; and

(g) the number of resident students transferring to another school.

Amended by Chapter 346, 2008 General Session

53A-2-209. Denial of enrollment -- Appeal.

(1) Denial of initial or continuing enrollment in a nonresident school may be appealed to the board of education of the nonresident district.

(2) The decision of the board shall be upheld in any subsequent proceedings unless the board's decision is found, by clear and convincing evidence, to be in violation of applicable law or regulation, or to be arbitrary and capricious.

Repealed and Re-enacted by Chapter 119, 1993 General Session

53A-2-210. Funding.

(1) A student who enrolls in a nonresident district is considered a resident of that district for purposes of state funding.

(2) The State Board of Education shall adopt rules providing that:

(a) the resident district pay the nonresident district, for each of the resident district's students who enroll in the nonresident district, 1/2 of the amount by which the resident district's per student expenditure exceeds the value of the state's contribution; and

(b) if a student is enrolled in a nonresident district for less than a full year, the resident district shall pay a portion of the amount specified in Subsection (2)(a) based on the percentage of school days the student is enrolled in the nonresident district.

(3) (a) Except as provided in this Subsection (3), the parent or guardian of a nonresident student shall arrange for the student's own transportation to and from school.

(b) The State Board of Education may adopt rules under which nonresident students may be transported to their schools of attendance if:

(i) the transportation of students to schools in other districts would relieve overcrowding or other serious problems in the district of residence and the costs of transportation are not excessive; or

(ii) the Legislature has granted an adequate specific appropriation for that purpose.

(c) A receiving district shall provide transportation for a nonresident student on the basis of available space on an approved route within the district to the school of attendance if district students would be eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.

(d) Nothing in this section shall be construed as prohibiting the resident district or the receiving district from providing bus transportation on any approved route.

(e) Except as provided in Subsection (3)(b), the district of residence may not claim any state transportation costs for students enrolled in other school districts.

Amended by Chapter 346, 2008 General Session

53A-2-211. Graduation credits.

(1) A nonresident district shall accept credits toward graduation that were awarded by a school accredited or approved by the State Board of Education or a regional accrediting body recognized by the U.S. Department of Education.

(2) A nonresident district shall award a diploma to a nonresident student attending school within the district during the semester immediately preceding graduation if the student meets graduation requirements generally applicable to students in the school.

(3) A district may not require that a student attend school within the district for more than one semester prior to graduation in order to receive a diploma.

Amended by Chapter 119, 1993 General Session

53A-2-213. Intradistrict transfers for students impacted by boundary changes -- Transportation of students who transfer within a district.

(1) (a) In adjusting school boundaries, a local school board shall strive to avoid requiring current students to change schools and shall, to the extent reasonably feasible, accommodate parents who wish to avoid having their children attend different schools of the same level because of boundary changes which occur after one or more children in the family begin attending one of the affected schools.

(b) In granting interdistrict and intradistrict transfers to a particular school, the local school board shall take into consideration the fact that an applicant's brother or sister is attending the school or another school within the district.

(2) (a) A district shall receive transportation money under Sections 53A-17a-126 and 53A-17a-127 for resident students who enroll in schools other than the regularly assigned school on the basis of the distance from the student's residence to the school the student would have attended had the intradistrict attendance option not been used.

(b) The parent or guardian of the student shall arrange for the student's transportation to and from school, except that the district shall provide transportation on the basis of available space on an approved route within the district to the school of the student's attendance if the student would be otherwise eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.

Amended by Chapter 346, 2008 General Session

53A-2-214. Online students' participation in extracurricular activities.

(1) As used in this section:

(a) "Online education" means the use of information and communication technologies to deliver educational opportunities to a student in a location other than a school.

(b) "Online student" means a student who:

(i) participates in an online education program sponsored or supported by the State Board of Education, a school district, or charter school; and

(ii) generates funding for the school district or school pursuant to Subsection 53A-17a-103(4) and rules of the State Board of Education.

(2) An online student is eligible to participate in extracurricular activities at:

(a) the school within whose attendance boundaries the student's custodial parent or legal guardian resides; or

(b) the public school from which the student withdrew for the purpose of

participating in an online education program.

(3) A school other than a school described in Subsection (2)(a) or (b) may allow an online student to participate in extracurricular activities other than:

(a) interschool competitions of athletic teams sponsored and supported by a public school; or

(b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.

(4) An online student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on an online school student to participate in extracurricular activities that are not imposed on full-time students of the public school.

(6) (a) The State Board of Education shall make rules establishing fees for an online school student's participation in extracurricular activities at school district schools.

(b) The rules shall provide that:

(i) online school students pay the same fees as other students to participate in extracurricular activities;

(ii) online school students are eligible for fee waivers pursuant to Section 53A-12-103;

(iii) for each online school student who participates in an extracurricular activity at a school district school, the online school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) an online school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.

(c) In determining an online school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, an online student is eligible to try out for and participate in the activity as provided in this section.

Amended by Chapter 371, 2011 General Session

53A-2-401. Title.

This part is known as the "School District Surplus Lands Act."

Enacted by Chapter 339, 2006 General Session

53A-2-402. Definitions.

As used in this part:

(1) "Eligible entity" means:

(a) a city or town with a population density of 3,000 or more people per square

mile; or

- (b) a county whose unincorporated area includes a qualifying township.
- (2) "Purchase price" means the greater of:
 - (a) an amount that is the average of:
 - (i) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the eligible entity; and
 - (ii) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the school district; and
 - (b) the amount the school district paid to acquire the surplus property.
- (3) "Qualifying township" means a township under Section 17-27a-306 that has a population density of 3,000 or more people per square mile within the boundaries of the township.
- (4) "Surplus property" means land owned by a school district that:
 - (a) was purchased with taxpayer money;
 - (b) is located within a city or town that is an eligible entity or within a qualifying township;
 - (c) consists of one contiguous tract at least three acres in size; and
 - (d) has been declared by the school district to be surplus.

Enacted by Chapter 339, 2006 General Session

53A-2-403. Purchase of surplus property.

- (1) An eligible entity may purchase, and each school district shall sell, surplus property as provided in this section.
- (2) (a) Upon declaring land to be surplus property, each school district shall give written notice to each eligible entity in which the surplus property is located.
 - (b) Each notice under Subsection (2)(a) shall:
 - (i) state that the school district has declared the land to be surplus property; and
 - (ii) describe the surplus property.
- (3) Subject to Subsection (4), an eligible entity may purchase the surplus property by paying the school district the purchase price.
- (4) (a) The legislative body of each eligible entity desiring to purchase surplus property under this section shall:
 - (i) within 90 days after the eligible entity receives notice under Subsection (2), adopt a resolution declaring the intent to purchase the surplus property and deliver a copy of the resolution to the school district; and
 - (ii) within 90 days after delivering a copy of the resolution under Subsection (4)(a)(i) to the school district, deliver to the school district an earnest money offer to purchase the surplus property at the purchase price.
- (b) If an eligible entity fails to comply with either of the requirements under Subsection (4)(a) within the applicable time period, the eligible entity forfeits the right to purchase the surplus property.
- (5) (a) An eligible entity may waive its right to purchase surplus property under this part by submitting a written waiver to the school district.
- (b) If an eligible entity submits a waiver under Subsection (5)(a), the school district has no further obligation under this part to sell the surplus property to the eligible

entity.

(6) Surplus property acquired by an eligible entity may not be used for any purpose other than:

- (a) a county, city, or town hall;
- (b) a park or other open space;
- (c) a cultural center or community center;
- (d) a facility for the promotion, creation, or retention of public or private jobs within the state through planning, design, development, construction, rehabilitation, business relocation, or any combination of these, within a county, city, or town;
- (e) office, industrial, manufacturing, warehousing, distribution, parking, or other public or private facilities, or other improvements that benefit the state or a county, city, or town; or
- (f) a facility for a charter school under Chapter 1a, Part 5, The Utah Charter Schools Act.

(7) (a) A school district that sells surplus property under this part may use proceeds from the sale only for bond debt reduction or school district capital facilities.

(b) Each school district that sells surplus property under this part shall place all proceeds from the sale that are not used for bond debt reduction in a capital facilities fund of the school district for use for school district capital facilities.

Amended by Chapter 104, 2012 General Session

53A-2-404. Resale of surplus property.

(1) If an eligible entity that has acquired surplus property under Section 53A-2-403 afterwards declares that property to be surplus, the school district from which the eligible entity acquired the property may purchase, and the eligible entity shall sell, the property as provided in Section 53A-2-403, except that the price at which the school district shall be entitled to reacquire the property shall be the price that the eligible entity paid for the property, plus the cost of any existing improvements that the eligible entity made to the property after it purchased the property.

(2) If the school district does not reacquire the surplus property under Subsection (1) and the eligible entity sells the surplus property to another buyer, the eligible entity and the school district shall equally share any proceeds of that sale that exceed the amount the eligible entity paid for the property plus the cost of any existing improvements the eligible entity made to the property after it purchased the property.

Enacted by Chapter 339, 2006 General Session

53A-3-101. Selection and election of members to Local Boards of Education.

Members of local boards of education shall be elected as provided in Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

Repealed and Re-enacted by Chapter 1, 1995 General Session

53A-3-106. Rules of order and procedure.

(1) As used in this section, "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

(2) Subject to Subsection (3), a local school board shall:

(a) adopt rules of order and procedure to govern a public meeting of the local school board;

(b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and

(c) make the rules of order and procedure described in Subsection (2)(a) available to the public:

- (i) at each public meeting of the local school board; and
- (ii) on the local school board's public website, if available.

(3) Subsection (2)(a) does not affect a local school board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Enacted by Chapter 107, 2011 General Session

53A-3-201. Election of officers -- Terms -- Time of election -- Removal of officers -- Quorum requirements.

(1) A local school board shall elect a president and a vice-president whose terms of office are for two years and until their successors are elected.

(2) The elections shall be held during the first board meeting in January following a regular school board election held in the district.

(3) An officer appointed or elected by a local school board may be removed from office for cause by a vote of two-thirds of the board.

(4) When a vacancy occurs in the office of president or vice president of the board for any reason, a replacement shall be elected for the unexpired term.

(5) Attendance of a simple majority of the board members constitutes a quorum for the transaction of official business.

Amended by Chapter 172, 2005 General Session

53A-3-202. Compensation for services -- Additional per diem -- Approval of expenses.

(1) Each member of a local school board, except the student member, shall receive compensation for services and for necessary expenses in accordance with board compensation schedules adopted by the local school board in accordance with the provisions of this section.

(2) Beginning on July 1, 2007, if a local school board decides to adopt or amend its board compensation schedules, the board shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.

(3) Notice of the time, place, and purpose of the meeting shall be provided at least seven days prior to the meeting by:

- (a) (i) publication at least once in a newspaper published in the county where

the school district is situated and generally circulated within the school district; and
(ii) publication on the Utah Public Notice Website created in Section 63F-1-701;
and

(b) posting a notice:

(i) at each school within the school district;

(ii) in at least three other public places within the school district; and

(iii) on the Internet in a manner that is easily accessible to citizens that use the Internet.

(4) After the conclusion of the public hearing, the local school board may adopt or amend its board compensation schedules.

(5) Each member shall submit an itemized account of necessary travel expenses for board approval.

(6) A local school board may, without following the procedures described in Subsections (2) and (3), continue to use the compensation schedule that was in effect prior to July 1, 2007 until, at the discretion of the board, the compensation schedule is amended or a new compensation schedule is adopted.

Amended by Chapter 90, 2010 General Session

53A-3-204. Duties of president.

(1) The president of each local school board shall preside at all meetings of the board, appoint all committees, and sign all warrants ordered by the board to be drawn upon the business administrator for school money.

(2) If the president is absent or acquires a disability, these duties are performed by the vice president.

Amended by Chapter 366, 2011 General Session

53A-3-301. Superintendent of schools -- Appointment -- Qualifications -- Term -- Compensation.

(1) Subject to Subsection (8), a local school board shall appoint a district superintendent of schools who serves as the local school board's chief executive officer.

(2) A local school board shall appoint the superintendent on the basis of outstanding professional qualifications.

(3) (a) A superintendent's term of office is for two years and until, subject to Subsection (8), a successor is appointed and qualified.

(b) A local school board that appoints a superintendent in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the superintendent.

(4) Unless a vacancy occurs during an interim vacancy period subject to Subsection (8), if it becomes necessary to appoint an interim superintendent due to a vacancy in the office of superintendent, the local school board shall make an appointment during a public meeting for an indefinite term not to exceed one year, which term shall end upon the appointment and qualification of a new superintendent.

(5) (a) The superintendent shall hold an administrative/supervisory license

issued by the State Board of Education, except as otherwise provided in Subsection (5)(b).

(b) At the request of a local school board, the State Board of Education shall grant a letter of authorization permitting a person with outstanding professional qualifications to serve as superintendent without holding an administrative/supervisory license.

(6) A local school board shall set the superintendent's compensation for services.

(7) A superintendent qualifies for office by taking the constitutional oath of office.

(8) (a) As used in this Subsection (8), "interim vacancy period" means the period of time that:

(i) begins on the day on which a general election described in Section 20A-1-202 is held to elect a member of a local school board; and

(ii) ends on the day on which the member-elect begins the member's term.

(b) (i) The local school board may not appoint a superintendent during an interim vacancy period.

(ii) Notwithstanding Subsection (8)(b)(i):

(A) the local school board may appoint an interim superintendent during an interim vacancy period; and

(B) the interim superintendent's term shall expire once a new superintendent is appointed by the new local school board after the interim vacancy period has ended.

(c) Subsection (8)(b) does not apply if all the local school board members who held office on the day of the general election whose term of office was vacant for the election are re-elected to the local school board for the following term.

Amended by Chapter 209, 2011 General Session

Amended by Chapter 322, 2011 General Session

53A-3-302. Business administrator -- Term -- Oath.

(1) Subject to Subsection (5), a local school board shall appoint a business administrator.

(2) (a) The business administrator's term of office is for two years and until, subject to Subsection (5), a successor is appointed and qualified.

(b) A local school board that appoints a business administrator in accordance with this section may not, on or after May 8, 2012, enter into an employment contract that contains an automatic renewal provision with the business administrator.

(3) Unless a vacancy occurs during an interim vacancy period subject to Subsection (5), if it becomes necessary to appoint an interim business manager due to a vacancy in the office of business administrator, then the local school board shall make an appointment during a public meeting for an indefinite term not to exceed one year, which term shall end upon the appointment and qualification of a new business manager.

(4) The business administrator qualifies for office by taking the constitutional oath of office.

(5) (a) As used in this Subsection (5), "interim vacancy period" means the period of time that:

- (i) begins on the day on which a general election described in Section 20A-1-202 is held to elect a member of a local school board; and
- (ii) ends on the day on which the member-elect begins the member's term.
- (b) (i) A local school board may not appoint a business administrator during an interim vacancy period.
- (ii) Notwithstanding Subsection (5)(b)(i):
 - (A) the local school board may appoint an interim business administrator during an interim vacancy period; and
 - (B) the interim business administrator's term shall expire once a new business administrator is appointed by the new local school board after the interim vacancy period has ended.
- (c) Subsection (5)(b) does not apply if all the local school board members who held office on the day of the general election whose term of office was vacant for the election are reelected to the local school board for the following term.

Amended by Chapter 46, 2012 General Session

53A-3-303. Duties of business administrator.

Subject to the direction of the district superintendent of schools, the district's business administrator shall:

- (1) attend all meetings of the board, keep an accurate record of its proceedings, and have custody of the seal and records;
- (2) be custodian of all district funds, be responsible and accountable for all money received and disbursed, and keep accurate records of all revenues received and their sources;
- (3) countersign with the president of the board all warrants and claims against the district as well as other legal documents approved by the board;
- (4) prepare and submit to the board each month a written report of the district's receipts and expenditures;
- (5) use uniform budgeting, accounting, and auditing procedures and forms approved by the State Board of Education, which shall be in accordance with generally accepted accounting principles or auditing standards and Title 63J, Chapter 1, Utah Budgetary Procedures Act;
- (6) prepare and submit to the board a detailed annual statement for the period ending June 30, of the revenue and expenditures, including beginning and ending fund balances;
- (7) assist the superintendent in the preparation and submission of budget documents and statistical and fiscal reports required by law or the State Board of Education;
- (8) insure that adequate internal controls are in place to safeguard the district's funds; and
- (9) perform other duties as the superintendent may require.

Amended by Chapter 382, 2008 General Session

53A-3-304. Other board officers.

(1) A board may appoint other necessary officers who serve at the pleasure of the board.

(2) These officers shall qualify by taking the constitutional oath of office before assuming office.

Amended by Chapter 336, 2011 General Session

53A-3-401. Boards of education are bodies corporate -- Seal -- Authority to sue -- Conveyance of property -- Duty to residents of the local school board member's district.

(1) As used in this section, "body corporate" means a public corporation and legal subdivision of the state, vested with the powers and duties of a government entity as specified in this chapter.

(2) The board of education of a school district is a body corporate under the name of the "Board of Education of School District" (inserting the proper name), and shall have an official seal conformable to its name.

(3) The seal is used by its business administrator in the authentication of all required matters.

(4) A local school board may sue and be sued, and may take, hold, lease, sell, and convey real and personal property as the interests of the schools may require.

(5) Notwithstanding a local school board's status as a body corporate, an elected member of a local school board serves and represents the residents of the local school board member's district, and that service and representation may not be restricted or impaired by the local school board member's membership on, or obligations to, the local school board.

Amended by Chapter 336, 2014 General Session

53A-3-402. Powers and duties generally.

(1) Each local school board shall:

(a) implement the core curriculum utilizing instructional materials that best correlate to the core curriculum and graduation requirements;

(b) administer tests, required by the State Board of Education, which measure the progress of each student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student's progress which shall be submitted to the State Office of Education for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the State Office of Education to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts; and

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff

management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in core academics.

(2) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section 53A-1-402.

(3) (a) A board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on board resolution affirmed by at least two-thirds of the members.

(4) (a) A board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the State Board of Education.

(5) A board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53A-1-1001, a board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A board may establish and support school libraries.

(8) A board may collect damages for the loss, injury, or destruction of school property.

(9) A board may authorize guidance and counseling services for children and their parents or guardians prior to, during, or following enrollment of the children in schools.

(10) (a) A board shall administer and implement federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act.

(b) Federal funds are not considered funds within the school district budget under Title 53A, Chapter 19, School District Budgets.

(11) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A board may on its own behalf, or on behalf of an educational institution for which the board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A board may appoint and fix the compensation of a compliance officer

to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A board shall adopt bylaws and rules for its own procedures.

(15) (a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) All board rules and policies shall be in writing, filed, and referenced for public access.

(16) A board may hold school on legal holidays other than Sundays.

(17) (a) Each board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) Each school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The board shall implement its plan by July 1, 2000.

(c) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and

activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent or guardian.

(d) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(e) Each local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) Each local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The State Board of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a board shall:

(i) hold a public hearing, as defined in Section 10-9a-103; and

(ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) date, time, and location of the public hearing; and

(ii) at least 10 days prior to the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality or on the district's official website.

(22) A board may implement a facility energy efficiency program established under Title 11, Chapter 44, Facility Energy Efficiency Act.

Amended by Chapter 202, 2014 General Session

53A-3-402.1. Access to student records by custodial and noncustodial parents.

(1) Except as provided in Subsection (2), a public school shall allow a custodial parent and a noncustodial parent of a child the same access to their child's education records.

(2) A school may not allow a noncustodial parent access to the child's education records if:

(a) a court has issued an order that limits the noncustodial parent's access to the child's education records; and

(b) the school has received a copy of the court order or has actual knowledge of the court order.

Enacted by Chapter 268, 1999 General Session

53A-3-402.5. Voter registration forms for high school students.

Each public school district and each accredited nonpublic school shall provide voter registration forms to students as required by Section 20A-2-302.

Repealed and Re-enacted by Chapter 1, 1993 General Session

53A-3-402.7. Kindergartens -- Establishment -- Funding.

(1) Kindergartens are an integral part of the state's public education system.

(2) By July 1, 1994, each local board of education shall provide kindergarten classes free of charge for kindergarten children residing within the district.

(3) Kindergartens established under Subsection (2) shall receive state money under Title 53A, Chapter 17a, The Minimum School Program Act.

Enacted by Chapter 122, 1993 General Session

53A-3-402.9. Assessment of emerging and early reading skills -- Resources provided by school districts.

(1) The Legislature recognizes that well-developed reading skills help:

(a) children to succeed in school, develop self esteem, and build positive relationships with others;

(b) young adults to become independent learners; and

(c) adults to become and remain productive members of a rapidly changing technology-based society.

(2) (a) Each potential kindergarten student, the student's parent or guardian, and kindergarten personnel at the student's school may participate in an assessment of

the student's reading and numeric skills.

(b) The State Office of Education, in cooperation with the state's school districts, may develop the assessment instrument and any additional materials needed to implement and supplement the assessment program.

(3) The potential kindergarten student's teacher may use the assessment in planning and developing an instructional program to meet the student's identified needs.

(4) (a) Each school is encouraged to schedule the assessment early enough before the kindergarten starting date so that a potential kindergarten student's parent or guardian has time to develop the child's needed skills as identified by the assessment.

(b) Based on the assessment under Subsection (2), the school shall provide the potential student's parent or guardian with appropriate resource materials to assist the parent or guardian at home in the student's literacy development.

Amended by Chapter 171, 2008 General Session

53A-3-402.10. Reading clinics -- Purpose.

(1) The Legislature recognizes the critical importance of identifying, assessing, and assisting students with reading difficulties at an early age in order for them to have successful and productive school and life experiences.

(2) In order to help accomplish this, there is established a reading clinic, hereafter referred to as the "clinic," based at the University of Utah, College of Education, to assist educators and parents of students statewide in:

(a) assessing elementary school students who do not demonstrate satisfactory progress in reading;

(b) providing instructional intervention to enable the students to overcome reading difficulties; and

(c) becoming better prepared to help all students become successful readers by providing them with professional development programs in reading that are based on best practices and the most current, scientific research available through nationally and internationally recognized reading researchers and instructional specialists.

(3) (a) The clinic shall focus primarily on students in grades 1 through 3 since research shows the need for students to become successful readers by the end of grade 3.

(b) The clinic shall make assessment and instructional intervention services available to public education students of all ages.

(4) The clinic shall provide these services at a base site in Salt Lake County and through remote access interactive technology to reach educators, parents, and students throughout the state.

(5) The clinic shall provide:

(a) instruction to teachers in the use of technology and blended learning in providing individualized reading instruction and reading remediation; and

(b) access to students for reading remediation and instruction services through distance learning technology if a student is unable to regularly access a reading clinic location.

(6) The clinic shall integrate both the usage of and instruction on the use of

technology-based reading assessment tools as part of the clinic's services.

Amended by Chapter 390, 2014 General Session

53A-3-402.11. Reading Performance Improvement Scholarship Program.

(1) There is established a Reading Performance Improvement Scholarship Program to assist selected elementary teachers in obtaining a reading endorsement so that they may help improve the reading performance of students in their classes.

(2) The State Board of Education shall award scholarships of up to \$500 to each recipient under the program.

(3) The board shall give weighted consideration to scholarship applicants who:

(a) teach in grades kindergarten through three;
(b) are designated by their schools as, or are seeking the designation of, reading specialist; and

(c) teach in a rural area of the state.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall provide by rule for:

(a) the application procedure for the scholarship; and
(b) what constitutes a reading specialist at the elementary school level.

Amended by Chapter 382, 2008 General Session

53A-3-403. School district fiscal year -- Statistical reports.

(1) A school district's fiscal year begins on July 1 and ends on June 30.

(2) (a) The district shall forward statistical reports for the preceding school year, containing items required by law or by the State Board of Education, to the state superintendent not later than November 1 of each year.

(b) The reports shall include information to enable the state superintendent to complete the statement required under Subsection 53A-1-301(3)(d)(v).

(3) The district shall forward the accounting report required under Section 51-2a-201 to the state superintendent not later than October 15 of each year.

(4) The district shall include the following information in its report:

(a) a summary of the number of students in the district given fee waivers, the number of students who worked in lieu of a waiver, and the total dollar value of student fees waived by the district;

(b) a copy of the district's fee and fee waiver policy;

(c) a copy of the district's fee schedule for students; and

(d) notices of fee waivers provided to a parent or guardian of a student.

Amended by Chapter 206, 2004 General Session

53A-3-404. Annual financial report -- Audit report.

(1) The annual financial report of each school district, containing items required by law or by the State Board of Education and attested to by independent auditors, shall be prepared as required by Section 51-2a-201.

(2) If auditors are employed under Section 51-2a-201, the auditors shall

complete their field work in sufficient time to allow them to verify necessary audit adjustments included in the annual financial report to the state superintendent.

(3) (a) (i) The district shall forward the annual financial report to the state superintendent not later than October 1.

(ii) The report shall include information to enable the state superintendent to complete the statement required under Subsection 53A-1-301(3)(d)(v).

(b) The State Board of Education shall publish electronically a copy of the report on the Internet not later than December 15.

(4) The completed audit report shall be delivered to the school district board of education and the state superintendent of public instruction not later than November 30 of each year.

Amended by Chapter 206, 2004 General Session

53A-3-405. Approval of purchases or indebtedness -- Board approval of identified purchases.

(1) An officer or employee of a school district may not make a purchase or incur indebtedness on behalf of the district without the approval and order of the board.

(2) The board shall adopt one of the following approval methods, or a combination of the two:

(a) The board shall approve an appropriation for identified purchases in the district budget. Each purchase made under an identified purchase does not require additional board approval.

(b) The board shall approve individual purchases when made throughout the fiscal year.

Enacted by Chapter 2, 1988 General Session

53A-3-406. Claims against the board -- Itemized.

Except for salary which is regularly authorized by the board, the board may not hear or consider any claim against the board which is not itemized.

Enacted by Chapter 2, 1988 General Session

53A-3-407. Display of American flag.

(1) Each local school board shall provide each school within the district with a suitable flagpole.

(2) The American flag shall be displayed on every school day and on every state and national holiday.

(3) The flag shall be maintained in a respectable condition.

Enacted by Chapter 2, 1988 General Session

53A-3-408. Tax exemption of school board property.

(1) Real and personal property held by a local school board is exempt from general and special taxation and from local assessments.

(2) This property may not be taken in any manner for debt.

Enacted by Chapter 2, 1988 General Session

53A-3-409. Local governmental entities and school districts -- Contracts and cooperation -- Disbursement of funds -- Municipal and county representative participation in school district board meetings -- Notice required.

(1) Local governmental entities and school districts may contract and cooperate with one another in matters affecting the health, welfare, education, and convenience of the inhabitants within their respective territorial limits.

(2) A local governmental entity may disburse public funds in aid of a school district located wholly or partially within the limits of its jurisdiction.

(3) (a) A mayor or the mayor's designee of a municipality that is partly or entirely within the boundaries of a school district and the county commission chair, county executive, or county manager, or their designee, of a county with unincorporated area within the boundaries of a school district may attend and participate in the board discussions at the school district's board meetings.

(b) Each local school board shall give notice of board meetings to:

(i) the mayor or the mayor's designee of each municipality that is partly or entirely within the school district's boundaries; and

(ii) the county commission chair, county executive, or county manager, or their designee, of a county with unincorporated area within the school district's boundaries.

(c) The notice required under Subsection (3)(b) shall be provided by:

(i) mail;

(ii) e-mail; or

(iii) other effective means agreed to by the person to whom notice is given.

Amended by Chapter 207, 2009 General Session

53A-3-410. Criminal background checks on school personnel -- Notice -- Payment of costs -- Request for review.

(1) As used in this section:

(a) "Administrator" means an administrator at a school district, charter school, or private school that requests the Criminal Investigations and Technical Services Division of the Department of Public Safety to conduct a criminal background check on an applicant or employee.

(b) "Applicant" means a person under consideration for:

(i) an offer of employment at a school district, charter school, or private school;
or

(ii) appointment as a volunteer for a school district, charter school, or private school who will be given significant unsupervised access to a student in connection with the volunteer's assignment.

(c) "Contract employee" means an employee of a staffing service who works at a public or private school under a contract between the staffing service and a school district, charter school, or private school.

(d) "Division" means the Criminal Investigations and Technical Services Division

of the Department of Public Safety.

(2) A school district superintendent, the superintendent's designee, or the chief administrative officer of a charter school:

(a) shall require an applicant to submit to a criminal background check as a condition for employment or appointment;

(b) shall require an employee to periodically submit to a criminal background check in accordance with rules of the State Board of Education or policies of the local school board or charter school governing board; and

(c) where reasonable cause exists, may require an existing employee or volunteer to submit to a criminal background check.

(3) The chief administrative officer of a private school may require, and the chief administrative officer of a private school that enrolls scholarship students under Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act, shall require:

(a) an applicant to submit to a criminal background check as a condition for employment or appointment; and

(b) where reasonable cause exists, an existing employee or volunteer to submit to a criminal background check.

(4) An applicant, volunteer, or employee shall receive written notice that a criminal background check has been requested.

(5) (a) (i) Fingerprints of the applicant, volunteer, or employee shall be taken, and the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103, shall release the applicant's, volunteer's, or employee's full criminal history record to the administrator requesting the information.

(ii) The division shall maintain a separate file of fingerprints submitted under Subsection (5)(a)(i) and notify the administrator when a new entry is made against an employee or volunteer whose fingerprints are held in the file regarding:

(A) any matters involving an alleged sexual offense;

(B) any matters involving an alleged drug-related offense;

(C) any matters involving an alleged alcohol-related offense; or

(D) any matters involving an alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person.

(iii) The cost of maintaining the separate file shall be paid by the school district, charter school, or private school from fees charged to those submitting fingerprints.

(b) Information received by the division from entities other than agencies or political subdivisions of the state may not be released to a private school unless the release is permissible under applicable laws or regulations of the entity providing the information.

(6) The superintendent, local school board, or their counterparts at a charter school or private school shall consider only those convictions, pleas in abeyance, or arrests which are job-related for the employee, applicant, or volunteer.

(7) (a) A school district, charter school, or private school may require an applicant to pay the costs of a background check as a condition for consideration for employment or appointment, if the applicant:

(i) has passed an initial review; and

(ii) is one of a pool of no more than five candidates for a position.

(b) A school district or charter school may require an employee to pay the cost of a periodic criminal background check required pursuant to rules of the State Board of Education or policies of the local school board or charter school governing board.

(8) The Criminal Investigations and Technical Services Division shall, upon request, seek additional information from regional or national criminal data files in responding to inquiries under this section.

(9) (a) An applicant, volunteer, or employee shall have an opportunity to respond to any information received as a result of a criminal background check.

(b) A public agency shall resolve any request for review by an applicant, volunteer, or employee through administrative procedures established by the agency.

(10) (a) If a person is denied employment or is dismissed from employment because of information obtained through a criminal background check, the person shall receive written notice of the reasons for denial or dismissal and have an opportunity to respond to the reasons.

(b) A school district or charter school shall resolve any request for a review of a denial of or dismissal from employment through administrative procedures established by the school district or charter school.

(11) Information obtained under this part is confidential and may only be disclosed as provided in this section.

(12) (a) A school district, charter school, or private school that enrolls scholarship students under Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act, may contract with a staffing service to provide a contract employee if:

(i) the school district, charter school, or private school requests the Criminal Investigations and Technical Services Division of the Department of Public Safety to conduct a criminal background check on the contract employee that is placed at the school district, charter school, or private school;

(ii) fingerprints of the contract employee are submitted to the division;

(iii) the division releases the contract employee's full criminal history record to the school district, charter school, or private school requesting the criminal background check; and

(iv) the school district, charter school, or private school requesting the criminal background check determines whether the contract employee is suitable for employment based on the standard established in Subsection (6).

(b) The division shall maintain a separate file of fingerprints submitted under Subsection (12)(a) and notify the administrator when a new entry is made against a contract employee whose fingerprints are held in the file regarding a matter listed in Subsection (5)(a)(ii).

(c) A school district, charter school, or private school may require a contract employee to pay the costs of a criminal background check, including the costs of the division to maintain the file required under Subsection (12)(b).

(d) (i) A contract employee who applies for a license issued by the State Board of Education shall submit to a criminal background check as provided in Section 53A-6-401.

(ii) A contract employee who works at a public school and does not hold a

license issued by the State Board of Education shall submit to a criminal background check every six years, or within a shorter period, if required by rules of the State Board of Education or policies of a local school board or charter school governing board.

Amended by Chapter 362, 2010 General Session

53A-3-411. Employment of school personnel -- Length of contract -- Termination for cause -- Individual contract of employment -- Employee acknowledgment of liability protection.

(1) A local school board may enter into a written employment contract for a term not to exceed five years.

(2) Nothing in the terms of the contract shall restrict the power of a local school board to terminate the contract for cause at any time.

(3) (a) A local school board may not enter into a collective bargaining agreement that prohibits or limits individual contracts of employment.

(b) Subsection (3)(a) does not apply to an agreement that was entered into before May 5, 2003.

(4) Each local school board shall:

(a) ensure that each employment contract complies with the requirements of Section 34-32-1.1;

(b) comply with the requirements of Section 34-32-1.1 in employing any personnel, whether by employment contract or otherwise; and

(c) ensure that at the time an employee enters into an employment contract, the employee shall sign a separate document acknowledging that the employee:

(i) has received:

(A) the disclosure required under Subsection 63A-4-204(4)(d) if the school district participates in the Risk Management Fund; or

(B) written disclosure similar to the disclosure required under Section 63A-4-204 if the school district does not participate in the Risk Management Fund; and

(ii) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.

Amended by Chapter 285, 2005 General Session

53A-3-412. Residence not condition of employment.

A local school board may not require an employee to reside within its school district as a condition of employment.

Enacted by Chapter 2, 1988 General Session

53A-3-413. Use of public school buildings and grounds as civic centers.

(1) As used in this section, "civic center" means a public school building or ground that is established and maintained as a limited public forum to district residents for supervised recreational activities and meetings.

(2) Except as provided in Subsection (3), all public school buildings and grounds shall be civic centers.

- (3) The use of school property for a civic center purpose:
 - (a) may not interfere with a school function or purpose; and
 - (b) is considered a permit for governmental immunity purposes for a governmental entity under Subsection 63G-7-301(5)(c).

Amended by Chapter 73, 2014 General Session

53A-3-414. Local school boards' responsibility for school buildings and grounds when used as civic centers.

- (1) As used in this section, "civic center" has the same meaning as provided in Section 53A-3-413.
- (2) A local school board:
 - (a) shall manage, direct, and control civic centers under this chapter;
 - (b) shall adopt policies for the use of civic centers;
 - (c) may charge a reasonable fee for the use of school facilities as a civic center so that the district incurs no expense for that use;
 - (d) may appoint a special functions officer under Section 53-13-105 to have charge of the grounds and protect school property when used for civic center purposes;
 - (e) shall allow the use of a civic center, for other than school purposes, unless it determines that the use interferes with a school function or purpose; and
 - (f) shall ensure that school administrators are trained about and properly implement the provisions of this section and Section 53A-3-413.

Amended by Chapter 199, 2008 General Session

53A-3-415. School board policy on detaining students after school.

- (1) Each local school board shall establish a policy on detaining students after regular school hours as a part of the districtwide discipline plan required under Section 53A-11-901.
- (2) The policy shall apply to elementary school students, grades kindergarten through six. The board shall receive input from teachers, school administrators, and parents and guardians of the affected students before adopting the policy.
- (3) The policy shall provide for notice to the parent or guardian of a student prior to holding the student after school on a particular day. The policy shall also provide for exceptions to the notice provision if detention is necessary for the student's health or safety.

Amended by Chapter 72, 1991 General Session

53A-3-417. Child care centers in public schools -- Requirements -- Availability -- Compliance with state and local laws.

- (1) (a) Upon receiving a request from a community group such as a community council, local PTA, or parent/student organization, a local school board may authorize the use of a part of any school building in the district to provide child care services for school aged children.
 - (b) (i) The school board shall provide written public notice of its intent to

authorize a child care center.

(ii) The board shall file a copy of the notice with the Office of Child Care within the Department of Workforce Services and the Department of Health.

(2) (a) Establishment of a child care center in a public school building is contingent upon the local school board determining that the center will not interfere with the building's use for regular school purposes.

(b) The decision shall be made at the sole discretion of the school board.

(c) A school board may withdraw its approval to operate a child care center at any time if it determines that such use interferes with the operation or interest of the school.

(d) The school district and its employees and agents are immune from any liability that might otherwise result from a withdrawal of approval if the withdrawal was made in good faith.

(3) (a) The board shall charge a commercially reasonable fee for the use of a school building as a child care center so that the district does not incur an expense.

(b) The fee shall include but not be limited to costs for utility, building maintenance, and administrative services supplied by the school that are related to the operation of the child care center.

(4) (a) Child care service may be provided by governmental agencies other than school districts, nonprofit community service groups, or private providers.

(b) If competitive proposals to provide child care services are submitted by the entities listed in Subsection (4)(a), the board shall give preference to the private provider and nonprofit community service groups so long as their proposals are judged to be at least equal to the proposal of the governmental agency.

(c) It is intended that these programs function at the local community level with minimal state and district involvement.

(5) It is the intent of the Legislature that providers not be required to go through a complex procedure in order to obtain approval for providing the service.

(6) (a) Child care centers within a public school building shall make their services available to all children regardless of where the children reside.

(b) If space and resources are limited, first priority shall be given to those who reside within the school boundaries where the center is located, and to the children of teachers and other employees of the school where the child care center is located.

(c) Second priority shall be given to those who reside within the school district boundaries where the center is located.

(7) (a) The school board shall require proof of liability insurance which is adequate in the opinion of the school board for use of school property as a child care center.

(b) A school district participating in the state Risk Management Fund shall require the provider of child care services to comply with the applicable provisions of Title 63A, Chapter 4, Risk Management.

(8) Child care centers established under this section shall operate in compliance with state and local laws and regulations, including zoning and licensing requirements, and applicable school rules.

(9) Except for Subsection (8), this section does not apply to child care centers established by a school district within a public school building if the center offers child

care services primarily to children of employees or children of students of the school district.

Amended by Chapter 171, 2004 General Session

53A-3-420. Activity disclosure statements.

(1) For a school year beginning with or after the 2012-13 school year, a local school board shall require the development of activity disclosure statements for each school-sponsored group or program which involves students and faculty in grades 9 through 12 in contests, performances, events, or other activities that require them to miss normal class time or takes place outside regular school time.

(2) The activity disclosure statements shall be disseminated to the students desiring involvement in the specific activity or to the students' parents or legal guardians or to both students and their parents.

(3) An activity disclosure statement shall contain the following information:

- (a) the specific name of the team, group, or activity;
- (b) the maximum number of students involved;
- (c) whether or not tryouts are used to select students, specifying date and time requirements for tryouts, if applicable;
- (d) beginning and ending dates of the activity;
- (e) a tentative schedule of the events, performances, games, or other activities with dates, times, and places specified if available;
- (f) if applicable, designation of any nonseason events or activities, including an indication of the status, required, expected, suggested, or optional, with the dates, times, and places specified;
- (g) personal costs associated with the activity;
- (h) the name of the school employee responsible for the activity; and
- (i) any additional information considered important for the students and parents to know.

Amended by Chapter 305, 2010 General Session

53A-3-421. Professional competence or performance -- Administrative hearing by local school board -- Action on complaint.

(1) (a) No civil action by or on behalf of a student relating to the professional competence or performance of a licensed employee of a school district, or to the discipline of students by a licensed employee, application of in loco parentis, or a violation of ethical conduct by an employee of a school district, may be brought in a court until at least 60 days after the filing of a written complaint with the local board of education of the district, or until findings have been issued by the local board after a hearing on the complaint, whichever is sooner.

(b) As used in Subsection (1)(a), "in loco parentis" means the power of professional school personnel to exercise the rights, duties, and responsibilities of a reasonable, responsible parent in dealing with students in school-related matters.

(c) A parent of a student has standing to file a civil action against an employee who provides services to a school attended by the student.

(2) Within 15 days of receiving a complaint under Subsection (1), a local school board may elect to refer the complaint to the State Board of Education.

(3) If a complaint is referred to the board, no civil action may be brought in a court on matters relating to the complaint until the board has provided a hearing and issued its findings or until 90 days after the filing of the complaint with the local school board, whichever is sooner.

Enacted by Chapter 108, 1999 General Session

53A-3-422. Internet and online access policy required.

State funds may not be provided to any local school board that provides access to the Internet or an online service unless the local school board adopts and enforces a policy to restrict access to Internet or online sites that contain obscene material.

Amended by Chapter 301, 2002 General Session

53A-3-423. Process and content standards for policy.

(1) "Policy" as used in this section means the elementary and secondary school online access policy adopted by a local school board to meet the requirements of Section 53A-3-422.

(2) (a) Each policy shall be developed under the direction of the local school board, adopted in an open meeting, and have an effective date. The local school board shall review the policy at least every three years, and a footnote shall be added to the policy indicating the effective date of the last review.

(b) Notice of the availability of the policy shall be posted in a conspicuous place within each school. The local school board may issue any other public notice it considers appropriate.

(3) The policy shall:

(a) state that it restricts access to Internet or online sites that contain obscene material and shall state how the local school board intends to meet the requirements of Section 53A-3-422;

(b) inform the public that administrative procedures and guidelines for the staff to follow in enforcing the policy have been adopted and are available for review at the school; and

(c) inform the public that procedures to handle complaints about the policy, its enforcement, or about observed behavior have been adopted and are available for review at the school.

Enacted by Chapter 172, 2001 General Session

53A-3-424. Rulemaking -- Reporting.

The State Office of Education may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding compliance standards and reporting requirements for local school boards with respect to the policy required by Section 53A-3-422.

Amended by Chapter 382, 2008 General Session

53A-3-425. Association leave -- District policy.

(1) As used in this section:

(a) "Association leave" means leave from a school district employee's regular school responsibilities granted for that employee to spend time for association, employee association, or union duties.

(b) "Employee association" means an association that:

(i) negotiates employee salaries, benefits, contracts, or other conditions of employment; or

(ii) performs union duties.

(2) Except as provided in Subsection (3), a local school board may not allow paid association leave for a school district employee to perform an employee association or union duty.

(3) (a) A local school board may allow paid association leave for a school district employee to perform an employee association duty if:

(i) the duty performed by the employee on paid association leave will directly benefit the school district, including representing the school district's licensed educators:

(A) on a board or committee, such as the school district's foundation, a curriculum development board, insurance committee, or catastrophic leave committee;

(B) at a school district leadership meeting; or

(C) at a workshop or meeting conducted by the school district's local school board;

(ii) the duty performed by the employee on paid association leave does not include political activity, including:

(A) advocating for or against a candidate for public office in a partisan or nonpartisan election;

(B) soliciting a contribution for a political action committee, a political issues committee, a registered political party, or a candidate, as defined in Section 20A-11-101; or

(C) initiating, drafting, soliciting signatures for, or advocating for or against a ballot proposition, as defined in Section 20A-1-102; and

(iii) the local school board ensures compliance with the requirements of Subsections (4)(a) through (g).

(b) Prior to a school district employee's participation in paid or unpaid association leave, a local school board shall adopt a written policy that governs association leave.

(c) Except as provided in Subsection (3)(d), a local school board policy that governs association leave shall require reimbursement to the school district of the costs for an employee, including benefits, for the time that the employee is:

(i) on unpaid association leave; or

(ii) participating in a paid association leave activity that does not provide a direct benefit to the school district.

(d) For a school district that allowed association leave described in Subsections (3)(c)(i) and (ii) prior to January 1, 2011, the local school board policy that governs

association leave may allow up to 10 days of association leave before requiring a reimbursement described in Subsection (3)(c).

(e) A reimbursement required under Subsection (3)(c), (d), or (4)(g) may be provided by an employee, association, or union.

(4) If a local school board adopts a policy to allow paid association leave, the policy shall include procedures and controls to:

(a) ensure that the duties performed by employees on paid association leave directly benefit the school district;

(b) require the school district to document the use and approval of paid association leave;

(c) require school district supervision of employees on paid association leave;

(d) require the school district to account for the costs and expenses of paid association leave;

(e) ensure that during the hours of paid association leave a school district employee may not engage in political activity, including:

(i) advocating for or against a candidate for public office in a partisan or nonpartisan election;

(ii) soliciting a contribution for a political action committee, a political issues committee, a registered political party, or a candidate, as defined in Section 20A-11-101; and

(iii) initiating, drafting, soliciting signatures for, or advocating for or against a ballot proposition, as defined in Section 20A-1-102;

(f) ensure that association leave is only paid out of school district funds when the paid association leave directly benefits the district; and

(g) require the reimbursement to the school district of the cost of paid association leave activities that do not provide a direct benefit to education within the school district.

(5) If a local school board adopts a policy to allow paid association leave, that policy shall indicate that a willful violation of this section or of a policy adopted in accordance with Subsection (3) or (4) may be used for disciplinary action under Section 53A-8a-502.

Amended by Chapter 278, 2013 General Session

53A-3-426. Education employee associations -- Equal participation -- Prohibition on endorsement or preferential treatment -- Naming of school breaks.

(1) As used in this section:

(a) "Education employee association" includes teacher associations, teacher unions, teacher organizations, and classified education employees' associations.

(b) "School" means a school district, a school in a school district, a charter school, or the State Board of Education and its employees.

(2) A school shall allow education employee associations equal access to the following activities:

(a) distribution of information in or access to teachers' or employees' physical or electronic mailboxes, including email accounts that are provided by the school; and

(b) membership solicitation activities at new teacher or employee orientation

training or functions.

(3) If a school permits an education employee association to engage in any of the activities described in Subsection (2), the school shall permit all other education employee associations to engage in the activity on the same terms and conditions afforded to the education employee association.

(4) It is unlawful for a school to:

(a) establish or maintain structures, procedures, or policies that favor one education employee association over another or otherwise give preferential treatment to an education employee association; or

(b) explicitly or implicitly endorse any education employee association.

(5) A school's calendars and publications may not include or refer to the name of any education employee association in relation to any day or break in the school calendar.

Enacted by Chapter 88, 2007 General Session

53A-3-427. Honorary high school diploma for certain veterans.

(1) A board of education of a school district may award an honorary high school diploma to a veteran, if the veteran:

(a) left high school before graduating in order to serve in the armed forces of the United States;

(b) served in the armed forces of the United States during the period of World War II, the Korean War, or the Vietnam War;

(c) (i) was honorably discharged; or

(ii) was released from active duty because of a service-related disability; and

(d) (i) resides within the school district; or

(ii) resided within the school district at the time of leaving high school to serve in the armed forces of the United States.

(2) To receive an honorary high school diploma, a veteran or immediate family member or guardian of a veteran shall submit to a local school board:

(a) a request for an honorary high school diploma; and

(b) information required by the local school board to verify the veteran's eligibility for an honorary high school diploma under Subsection (1).

(3) At the request of a veteran, a veteran's immediate family member or guardian, or a local school board, the Department of Veterans' and Military Affairs shall certify whether the veteran meets the requirements of Subsections (1)(b) and (c).

Amended by Chapter 214, 2013 General Session

53A-3-428. Collective bargaining agreement -- Website posting.

(1) As used in this section, "collective bargaining agreement" includes:

(a) a master agreement; and

(b) an amendment, addendum, memorandum, or other document modifying the master agreement.

(2) The board of education of a school district:

(a) shall post on the school district's website a collective bargaining agreement

entered into by the board of education within 10 days of the ratification of the agreement; and

(b) may remove from the school district's website a collective bargaining agreement that is no longer in effect.

(3) The governing board of a charter school:

(a) shall post on the charter school's website a collective bargaining agreement entered into by the governing board of the charter school within 10 days of the ratification of the agreement; and

(b) may remove from the charter school's website a collective bargaining agreement that is no longer in effect.

Enacted by Chapter 392, 2009 General Session

53A-3-429. Regional service centers.

(1) For purposes of this section, "eligible regional service center" means a regional service center formed by two or more school districts as an interlocal entity, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(2) The Legislature strongly encourages school districts to collaborate and cooperate to provide educational services in a manner that will best utilize resources for the overall operation of the public education system.

(3) An eligible regional service center formed by an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, may receive a distribution described in Subsection (5) if the Legislature appropriates money for eligible regional service centers.

(4) (a) If local school boards enter into an interlocal agreement to confirm or formalize a regional service center in operation before July 1, 2011, the interlocal agreement may not eliminate any rights or obligations of the regional service center in effect before entering into the interlocal agreement.

(b) An interlocal agreement entered into to confirm or formalize an existing regional service center shall have the effect of confirming and ratifying in the regional service center, the title to any property held in the name, or for the benefit of the regional service center as of the effective date of the interlocal agreement.

(5) (a) The State Board of Education shall distribute any funding appropriated to eligible regional service centers as provided by the Legislature.

(b) The State Board of Education may provide funding to an eligible regional service center in addition to legislative appropriations.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules regarding eligible regional service centers including:

(a) the distribution of legislative appropriations to eligible regional service centers;

(b) the designation of eligible regional service centers as agents to distribute Utah Education and Telehealth Network services; and

(c) the designation of eligible regional service centers as agents for regional coordination of public education and higher education services.

(7) A public school that is a charter school may enter into a contract with an

eligible regional service center to receive education related services from the eligible regional service center.

Amended by Chapter 63, 2014 General Session

53A-3-431. Health insurance mandates.

A local school board and the governing body of a charter school shall include in a health plan it offers to school district employees, or charter school employees insurance mandates in accordance with Section 31A-22-605.5.

Enacted by Chapter 127, 2012 General Session

53A-3-501. Possession or consumption of alcoholic beverages at school or school-sponsored activities -- Penalty.

(1) Except as approved by a local school board as part of the curriculum, a person may not possess or drink an alcoholic beverage:

(a) inside or on the grounds of any building owned or operated by a part of the public education system; or

(b) in those portions of any building, park, or stadium which are being used for an activity sponsored by or through any part of the public education system.

(2) (a) Subsection (1)(a) does not apply to property owned by a school district in contemplation of future use for school purposes while the property is under lease to another party.

(b) (i) For purposes of Subsection (2)(a), a lease must be full time for a period of not less than two years.

(ii) The property may not be used for school purposes at any time during the lease period.

(3) Violation of this section is a class B misdemeanor.

Amended by Chapter 10, 1998 General Session

53A-3-503. Criminal trespass upon school property -- Penalty.

(1) A person is guilty of criminal trespass upon school property if the person does the following:

(a) enters or remains unlawfully upon school property, and:

(i) intends to cause annoyance or injury to a person or damage to property on the school property;

(ii) intends to commit a crime; or

(iii) is reckless as to whether the person's presence will cause fear for the safety of another; or

(b) enters or remains without authorization upon school property if notice against entry or remaining has been given by:

(i) personal communication to the person by a school official or an individual with apparent authority to act for a school official;

(ii) the posting of signs reasonably likely to come to the attention of trespassers;

(iii) fencing or other enclosure obviously designed to exclude trespassers; or

- (iv) a current order of suspension or expulsion.
- (2) As used in this section:
 - (a) "Enter" means intrusion of the entire body.
 - (b) "School official" means a public or private school administrator or person in charge of a school program or activity.
 - (c) "School property" means real property owned or occupied by a public or private school, including real property temporarily occupied for a school activity or program.
- (3) Violation of this section is a class B misdemeanor.

Amended by Chapter 78, 1990 General Session

53A-3-504. Traffic ordinances on school property -- Enforcement.

(1) A local political subdivision in which real property is located that belongs to, or is controlled by, the State Board of Education, a local board of education, an area vocational center, or the Schools for the Deaf and the Blind may, at the request of the responsible board of education or institutional council, adopt ordinances for the control of vehicular traffic on that property.

(2) A law enforcement officer whose jurisdiction includes the property in question may enforce an ordinance adopted under Subsection (1).

Enacted by Chapter 140, 1988 General Session

53A-3-601. Legislative findings.

The Legislature recognizes broad-based support from the general public and the state's education community for school and school district performance reports. The Legislature further recognizes that a number of school districts are already committed to a reporting program that gives parents individual student achievement test information, that provides school test data results to the school's community, and that publishes district-wide test results for distribution to the general public.

Amended by Chapter 219, 2000 General Session

53A-3-602.5. School performance report -- Components -- Annual filing.

(1) For a school year beginning with or after the 2010-11 school year, the State Board of Education in collaboration with the state's school districts and charter schools shall develop a school performance report to inform the state's residents of the quality of schools and the educational achievement of students in the state's public education system.

(2) The report described in Subsection (1) shall be written and include the following statistical data for each school in a school district and each charter school, as applicable, except as provided by Subsection (2)(g), and shall also aggregate the data at the school district and state level:

- (a) test scores over the previous year on:
 - (i) criterion-referenced or online computer adaptive tests to include the scores aggregated for all students:

(A) by grade level or course for the previous two years and an indication of whether there was a sufficient magnitude of gain in the scores between the two years; and

- (B) by class;
- (ii) online writing assessments required under Section 53A-1-603; and
- (iii) college readiness assessments required under Section 53A-1-603;
- (b) college entrance examinations data, including the number and percentage of each graduating class taking the examinations for the previous four years;
- (c) advanced placement and concurrent enrollment data, including:
 - (i) the number of students taking advanced placement and concurrent enrollment courses;
 - (ii) the number and percent of students taking a specific advanced placement course who take advanced placement tests to receive college credit for the course;
 - (iii) of those students taking the test referred to in Subsection (2)(c)(ii), the number and percent who pass the test; and
 - (iv) of those students taking a concurrent enrollment course, the number and percent of those who receive college credit for the course;
- (d) the number and percent of students in grade 3 reading at or above grade level;
- (e) the number and percent of students who were absent from school 10 days or more during the school year;
- (f) achievement gaps that reflect the differences in achievement of various student groups as defined by State Board of Education rule;
- (g) the number and percent of "student dropouts" within the school district as defined by State Board of Education rule;
- (h) course-taking patterns and trends in secondary schools;
- (i) student mobility;
- (j) staff qualifications, to include years of professional service and the number and percent of staff who have a degree or endorsement in their assigned teaching area and the number and percent of staff who have a graduate degree;
- (k) the number and percent of parents who participate in SEP, SEOP, and parent-teacher conferences;
- (l) average class size calculated in accordance with State Board of Education rule adopted under Subsection (4);
- (m) average daily attendance as defined by State Board of Education rule, including every period in secondary schools; and
- (n) enrollment totals disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch.

(3) For a school year beginning with or after the 2010-11 school year, the State Board of Education, in collaboration with the state's school districts and charter schools, shall provide for the collection and electronic reporting of the following data for a school in each school district and each charter school:

- (a) test scores and trends over the previous four years on the tests referred to in Subsection (2)(a);
- (b) the average grade given in each math, science, and English course in

grades 9 through 12 for which criterion-referenced or online computer adaptive tests are required under Section 53A-1-603;

(c) incidents of student discipline as defined by State Board of Education rule, including suspensions, expulsions, and court referrals; and

(d) the number and percent of students receiving fee waivers and the total dollar amount of fees waived.

(4) (a) The State Board of Education shall adopt common definitions and data collection procedures for local school boards and charter schools to use in collecting and forwarding the data required under Subsections (2) and (3) to the state superintendent of public instruction.

(b) (i) In accordance with Subsections (4)(b)(ii) through (4)(b)(iv), the State Board of Education shall adopt rules specifying how average class size shall be calculated.

(ii) (A) Except as provided by Subsections (4)(b)(ii)(B) through (4)(b)(ii)(D) or for nontraditional classes identified by rule, average class size at the elementary school level shall:

(I) be calculated by grade level; and

(II) indicate the average number of students who are assigned to a teacher for instruction together during a designated time period.

(B) If students at the elementary school level receive instruction in core classes from different teachers, average class size may be calculated as provided by Subsection (4)(b)(iii) for secondary school students.

(C) An elementary school class that includes students from multiple grade levels shall be counted as a single class.

(D) An extended day class in which a portion of the class arrives early and the other portion stays late shall be counted as a single class.

(iii) (A) Except as provided by Subsection (4)(b)(iii)(B) or for nontraditional classes identified by rule, average class size at the secondary school level shall:

(I) be calculated for core language arts, mathematics, and science courses; and

(II) indicate the average number of students who are assigned to a teacher for instruction together during a designated time period.

(B) A secondary school class in which a teacher provides instruction in multiple courses shall be counted as a single class.

(iv) Special education classes and online classes shall be excluded when determining average class size by grade at the elementary school level or the average class size of core language arts, mathematics, and science courses at the secondary level.

(c) The State Board of Education, through the state superintendent of public instruction, shall adopt standard reporting forms and provide a common template for collecting and reporting the data, which shall be used by all school districts and charter schools.

(d) The state superintendent shall use the automated decision support system referred to in Section 53A-1-301 to collect and report the data required under Subsections (2) and (3).

(5) (a) For a school year beginning with or after the 2010-11 school year, the State Board of Education, through the state superintendent of public instruction, shall

issue its report annually by October 1 to include the required data from the previous school year or years as indicated in Subsections (2) and (3).

(b) The State Board of Education shall publish on the State Board of Education's website U-PASS school reports for the 2009-10 school year that indicate the academic proficiency and progress of a school's students and whether the school meets state standards of performance.

(6) (a) Each local school board and each charter school shall receive a written or an electronic copy of the report from the state superintendent of public instruction containing the data for that school district or charter school in a clear summary format and have it distributed, on a one per household basis, to the residence of students enrolled in the school district or charter school before November 30th of each year.

(b) Each local school board, each charter school, and the State Board of Education shall have a complete report of the statewide data available for copying or in an electronic format at their respective offices.

Amended by Chapter 161, 2013 General Session

53A-3-603. State board models, guidelines, and training.

(1) The State Board of Education through the State Office of Education shall develop and provide models, guidelines, and training to school districts to enable each district to comply with Section 53A-3-602.5.

(2) The models and guidelines shall focus on systematic, simplified organizational analysis and reporting of available data.

(3) A school district is not restricted to using the models and guidelines developed by the board if it develops or finds a better approach for clearly communicating the data required under Section 53A-3-602.5.

Amended by Chapter 219, 2000 General Session

53A-3-701. Professional learning standards.

(1) As used in this section, "professional learning" means a comprehensive, sustained, and evidence-based approach to improving teachers' and principals' effectiveness in raising student achievement.

(2) A school district or charter school shall implement high quality professional learning that meets the following standards:

(a) professional learning occurs within learning communities committed to continuous improvement, individual and collective responsibility, and goal alignment;

(b) professional learning requires skillful leaders who develop capacity, advocate, and create support systems, for professional learning;

(c) professional learning requires prioritizing, monitoring, and coordinating resources for educator learning;

(d) professional learning uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning;

(e) professional learning integrates theories, research, and models of human learning to achieve its intended outcomes;

(f) professional learning applies research on change and sustains support for

implementation of professional learning for long-term change;

(g) professional learning aligns its outcomes with:

(i) performance standards for teachers and school administrators as described in rules of the State Board of Education; and

(ii) performance standards for students as described in the core curriculum standards adopted by the State Board of Education pursuant to Section 53A-1-402.6; and

(h) professional learning:

(i) incorporates the use of technology in the design, implementation, and evaluation of high quality professional learning practices; and

(ii) includes targeted professional learning on the use of technology devices to enhance the teaching and learning environment and the integration of technology in content delivery.

(3) School districts and charter schools shall use money appropriated by the Legislature for professional learning or federal grant money awarded for professional learning to implement professional learning that meets the standards specified in Subsection (2).

(4) (a) In the fall of 2014, the State Board of Education, through the state superintendent of public instruction, and in collaboration with an independent consultant acquired through a competitive bid process, shall conduct a statewide survey of school districts and charter schools to:

(i) determine the current state of professional learning for educators as aligned with the standards specified in Subsection (2);

(ii) determine the effectiveness of current professional learning practices; and

(iii) identify resources to implement professional learning as described in Subsection (2).

(b) The State Board of Education shall select a consultant from bidders who have demonstrated successful experience in conducting a statewide analysis of professional learning.

(c) (i) Annually in the fall, beginning in 2015 through 2020, the State Board of Education, through the state superintendent of public instruction, in conjunction with school districts and charter schools, shall gather and use data to determine the impact of professional learning efforts and resources.

(ii) Data used to determine the impact of professional learning efforts and resources under Subsection (4)(c)(i) shall include:

(A) student achievement data;

(B) educator evaluation data; and

(C) survey data.

Amended by Chapter 221, 2003 General Session

53A-4-205. Establishment of public education foundations -- Powers and duties -- Tax exempt status.

(1) The State Board of Education, a local school board, or the Utah Schools for the Deaf and Blind may establish foundations to:

(a) assist in the development and implementation of the programs authorized

under this part to promote educational excellence; and

(b) assist in the accomplishment of other education-related objectives.

(2) A foundation established under Subsection (1):

(a) may solicit and receive contributions from private enterprises for the purpose of this part;

(b) shall comply with Title 51, Chapter 7, State Money Management Act, and rules made under the act;

(c) has no power or authority to incur contractual obligations or liabilities that constitute a claim against public funds except as provided in this section;

(d) may not exercise executive, administrative, or rulemaking authority over the programs referred to in this part, except to the extent specifically authorized by the responsible school board;

(e) is exempt from all taxes levied by the state or any of its political subdivisions with respect to activities conducted under this part;

(f) may participate in the Risk Management Fund under Section 63A-4-204;

(g) shall provide a school with information detailing transactions and balances of funds managed for that school;

(h) shall, for foundation accounts from which money is distributed to schools, provide all the schools within a school district information that:

(i) details account transactions; and

(ii) shows available balances in the accounts; and

(i) may not:

(i) engage in lobbying activities;

(ii) attempt to influence legislation; or

(iii) participate in any campaign activity for or against:

(A) a political candidate; or

(B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.

(3) A local school board that establishes a foundation under Subsection (1) shall:

(a) require the foundation to:

(i) use the school district's accounting system; or

(ii) follow written accounting policies established by the board;

(b) review and approve the foundation's accounting, purchasing, and check issuance policies to ensure that there is an adequate separation of responsibilities; and

(c) approve procedures to verify that issued foundation payments have been properly approved.

Amended by Chapter 280, 2011 General Session

Amended by Chapter 342, 2011 General Session

53A-5-101. Utah School Boards Association.

The Utah School Boards Association is recognized as an organization and agency of the school boards of Utah and is representative of those boards.

Amended by Chapter 78, 1990 General Session

53A-5-102. Boards of education authorized to become members of association.

The State Board of Education, local school boards, and their agencies may become members of the Utah School Boards Association and cooperate with the association and its members on activities and problems relating to the state's educational system.

Enacted by Chapter 2, 1988 General Session

53A-5-103. Payment of dues -- Expenses in attending meetings -- Contributions.

(1) Member boards may pay dues and make other contributions to the association for its educational activities.

(2) They may also incur reasonable travel and subsistence expenses for the purpose of attending meetings and conferences of the association.

(3) Dues and contributions expenses shall be paid in the same manner as are other expenses of the member boards.

Enacted by Chapter 2, 1988 General Session

53A-6-101. Title.

This chapter is known as the "Educator Licensing and Professional Practices Act."

Repealed and Re-enacted by Chapter 108, 1999 General Session

53A-6-102. Legislative findings on teacher quality -- Declaration of education as a profession.

(1) (a) The Legislature acknowledges that education is perhaps the most important function of state and local governments, recognizing that the future success of our state and nation depend in large part upon the existence of a responsible and educated citizenry.

(b) The Legislature further acknowledges that the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility.

(2) (a) The Legislature finds that:

(i) quality teaching is the basic building block of successful schools and, outside of home and family circumstances, the essential component of student achievement;

(ii) the high quality of teachers is absolutely essential to enhance student achievement and to assure educational excellence in each classroom in the state's public schools; and

(iii) the implementation of a comprehensive continuum of data-driven strategies regarding recruitment, preservice, licensure, induction, professional development, and evaluation is essential if the state and its citizens expect every classroom to be staffed by a skilled, caring, and effective teacher.

(b) In providing for the safe and effective performance of the function of educating Utah's children, the Legislature further finds it to be of critical importance that education, including instruction, administrative, and supervisory services, be recognized as a profession, and that those who are licensed or seek to become licensed and to serve as educators:

(i) meet high standards both as to qualifications and fitness for service as educators through quality recruitment and preservice programs before assuming their responsibilities in the schools;

(ii) maintain those standards in the performance of their duties while holding licenses, in large part through participating in induction and ongoing professional development programs focused on instructional improvement;

(iii) receive fair, systematic evaluations of their performance at school for the purpose of enhancing the quality of public education and student achievement; and

(iv) have access to a process for fair examination and review of allegations made against them and for the administration of appropriate sanctions against those found, in accordance with due process, to have failed to conduct themselves in a manner commensurate with their authority and responsibility to provide appropriate professional services to the children of the state.

Amended by Chapter 49, 2013 General Session

53A-6-103. Definitions.

As used in this chapter:

(1) "Accredited institution" means an institution meeting the requirements of Section 53A-6-107.

(2) (a) "Alternative preparation program" means preparation for licensure in accordance with applicable law and rule through other than an approved preparation program.

(b) "Alternative preparation program" includes the competency-based licensing program described in Section 53A-6-104.5.

(3) "Ancillary requirement" means a requirement established by law or rule in addition to completion of an approved preparation program or alternative education program or establishment of eligibility under the NASDTEC Interstate Contract, and may include any of the following:

(a) minimum grade point average;

(b) standardized testing or assessment;

(c) mentoring;

(d) recency of professional preparation or experience;

(e) graduation from an accredited institution; or

(f) evidence relating to moral, ethical, physical, or mental fitness.

(4) "Approved preparation program" means a program for preparation of educational personnel offered through an accredited institution in Utah or in a state which is a party to a contract with Utah under the NASDTEC Interstate Contract and which, at the time the program was completed by the applicant:

(a) was approved by the governmental agency responsible for licensure of educators in the state in which the program was provided;

(b) satisfied requirements for licensure in the state in which the program was provided;

(c) required completion of a baccalaureate; and

(d) included a supervised field experience.

(5) "Board" means the Utah State Board of Education.

(6) "Certificate" means a license issued by a governmental jurisdiction outside the state.

(7) "Core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(8) "Educator" means:

(a) a person who holds a license;

(b) a teacher, counselor, administrator, librarian, or other person required, under rules of the board, to hold a license; or

(c) a person who is the subject of an allegation which has been received by the board or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.

(9) (a) "Endorsement" means a stipulation appended to a license setting forth the areas of practice to which the license applies.

(b) An endorsement shall be issued upon completion of a competency-based teacher preparation program from a regionally accredited university that meets state content standards.

(10) "License" means an authorization issued by the board which permits the holder to serve in a professional capacity in the public schools. The five levels of licensure are:

(a) "letter of authorization," which is:

(i) a temporary license issued to a person who has not completed requirements for a competency-based, or level 1, 2, or 3 license, such as:

(A) a student teacher; or

(B) a person participating in an alternative preparation program; or

(ii) a license issued, pursuant to board rules, to a person who has achieved eminence, or has outstanding qualifications, in a field taught in public schools;

(b) "competency-based license" which is issued to a teacher based on the teacher's demonstrated teaching skills and abilities;

(c) "level 1 license," which is a license issued upon completion of:

(i) a competency-based teacher preparation program from a regionally accredited university; or

(ii) an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule;

(d) "level 2 license," which is a license issued after satisfaction of all requirements for a level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience; and

(e) "level 3 license," which is a license issued to an educator who holds a current Utah level 2 license and has also received, in the educator's field of practice, National Board certification or a doctorate from an accredited institution.

(11) "NASDTEC" means the National Association of State Directors of Teacher Education and Certification.

(12) "NASDTEC Interstate Contract" means the contract implementing Title 53A, Chapter 6, Part 2, Compact for Interstate Qualification of Educational Personnel, which is administered through NASDTEC.

(13) "National Board certification" means a current certificate issued by the National Board for Professional Teaching Standards.

(14) "Necessarily existent small school" means a school classified as a necessarily existent small school in accordance with Section 53A-17a-109.

(15) "Office" means the Utah State Office of Education.

(16) "Rule" means an administrative rule adopted by the board under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(17) "School" means a public or private entity which provides educational services to a minor child.

(18) "Small school district" means a school district with an enrollment of less than 5,000 students.

(19) "UPPAC" means the Utah Professional Practices Advisory Commission.

Amended by Chapter 382, 2008 General Session

53A-6-104. Board licensure.

(1) (a) The board may issue licenses for educators.

(b) A person employed in a position that requires licensure by the board shall hold the appropriate license.

(2) (a) The board may by rule rank, endorse, or otherwise classify licenses and establish the criteria for obtaining and retaining licenses.

(b) (i) The board shall make rules requiring participation in professional development activities or compliance with a school district professional development plan as provided in Subsection (4) in order for educators to retain their licenses.

(ii) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the professional development requirements of Subsection (2)(b)(i) is exempt from tuition, except for a semester registration fee established by the State Board of Regents, if:

(A) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and

(B) enrollments are determined by each institution under rules and guidelines established by the State Board of Regents in accordance with findings of fact that space is available for the educator's enrollment.

(3) Except as provided in Subsection (4), unless suspended or revoked by the board, or surrendered by the educator:

(a) a letter of authorization is valid for one year, or a shorter period as specified by the board, subject to renewal by the board in accordance with board rules;

(b) a competency-based license remains valid;

(c) a level 1 license is valid for three years, subject to renewal by the board in

accordance with board rules;

(d) a level 2 license is valid for five years, subject to renewal by the board in accordance with board rules; and

(e) a level 3 license is valid for seven years, subject to renewal by the board in accordance with board rules.

(4) Unless suspended or revoked by the board, or surrendered by the educator, a level 1, level 2, level 3, or competency-based license shall remain valid if:

(a) the license holder is employed by a school district that has a comprehensive program to maintain and improve educators' skills in which performance standards, educator evaluation, and professional development are integrated; and

(b) the license holder complies with school or school district professional development requirements.

Amended by Chapter 315, 2003 General Session

53A-6-104.1. Reinstatement of a license.

(1) An educator who previously held a license and whose license has expired may have the license reinstated by:

(a) filing an application with the board on the form prescribed by the board;

(b) paying the fee required by Section 53A-6-105; and

(c) submitting to a criminal background check as required by Section 53A-6-401.

(2) Upon successful completion of the criminal background check and verification that the applicant's previous license had not been revoked, suspended, or surrendered, the board shall reinstate the license.

(3) An educator whose license is reinstated may not be required to obtain professional development not required of other educators with the same number of years of experience, except as provided in Subsection (4).

(4) The principal of the school at which an educator whose license is reinstated is employed shall provide information and training, based on the educator's experience and education, that will assist the educator in performing the educator's assigned position.

(5) The procedures for reinstating a license as provided in this section do not apply to an educator's license that expires while the educator is employed in a position requiring the license.

Enacted by Chapter 145, 2008 General Session

53A-6-104.5. Licensing by competency.

(1) A competency-based license to teach may be issued based on the demonstrated competence of a teacher as provided in this section.

(2) A local school board or charter school may request, and the State Board of Education shall grant, upon receipt of documentation from the local school board or charter school verifying the person's qualifications as specified in this section, a competency-based license to a person who meets the qualifications specified in this section and Section 53A-6-401.

(3) A local school board or charter school may request a competency-based

license if the candidate meets the following qualifications:

- (a) a license candidate who teaches one or more core academic subjects in an elementary school shall:
 - (i) hold at least a bachelor's degree; and
 - (ii) have demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum;
- (b) a license candidate who teaches one or more core academic subjects in a middle or secondary school shall:
 - (i) hold at least a bachelor's degree; and
 - (ii) have demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:
 - (A) passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches; or
 - (B) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, or advanced certification or credentialing; or
- (c) a license candidate who teaches subjects other than a core academic subject in an elementary, middle, or high school shall:
 - (i) hold a bachelor's degree, associate's degree, or skill certification; and
 - (ii) have skills, talents, or abilities, as evaluated by the employing entity, that make the person suited for the teaching position.
- (4) A school district or charter school:
 - (a) shall monitor and assess the performance of each teacher holding a competency-based license; and
 - (b) may recommend that the competency-based license holder's training and assessment be reviewed by the Utah State Office of Education for a level 1 license.

Amended by Chapter 19, 2004 General Session

53A-6-105. Licensing fees -- Credit to subfund -- Payment of expenses.

- (1) The board shall levy a fee for each new, renewed, or reinstated license or endorsement in accordance with Section 63J-1-504.
- (2) Fee payments are credited to the Professional Practices Restricted Subfund in the Uniform School Fund.
- (3) The board shall pay the expenses of issuing licenses and of UPPAC operations, and the costs of collecting license fees from the restricted subfund.
- (4) The office shall submit an annual report to the Legislature's Public Education Appropriations Subcommittee informing the Legislature about the fund, fees assessed and collected, and expenditures from the fund.

Amended by Chapter 183, 2009 General Session

53A-6-106. Qualifications of applicants for licenses -- Changes in qualifications.

- (1) The board shall establish by rule the scholarship, training, and experience

required of license applicants.

(2) (a) The board shall announce any increase in the requirements when made.

(b) An increase in requirements shall become effective not less than one year from the date of the announcement.

(3) The board may determine by examination or otherwise the qualifications of license applicants.

Repealed and Re-enacted by Chapter 108, 1999 General Session

53A-6-107. Program approval.

(1) The board shall establish by rule the standards which must be met by approved preparation programs and alternative preparation programs.

(2) Standards adopted by the board for approved preparation programs and alternative preparation programs shall meet or exceed generally recognized national standards for preparation of educators, such as those developed by the Interstate New Teacher Assessment and Support Consortium, the National Board for Professional Teaching Standards, and the National Council for the Accreditation of Teacher Education.

Repealed and Re-enacted by Chapter 108, 1999 General Session

53A-6-108. Prohibition on use of degrees or credit from unapproved institutions.

(1) An individual may not use a postsecondary degree or credit awarded by a postsecondary institution or program to gain a license, employment, or any other benefit within the public school system unless the institution or program was, at the time the degree or credit was awarded:

(a) approved for the granting of the degree or credit by the board; or

(b) accredited by an accrediting organization recognized by the board.

(2) The board may grant an exemption from Subsection (1) to an individual who shows good cause for the granting of the exemption.

Repealed and Re-enacted by Chapter 108, 1999 General Session

53A-6-109. Substitute teachers.

(1) A substitute teacher need not hold a license to teach, but school districts are encouraged to hire licensed personnel as substitutes when available.

(2) A person must submit to a background check under Section 53A-3-410 prior to employment as a substitute teacher.

(3) A teacher's position in the classroom may not be filled by unlicensed substitute teachers for more than a total of 20 days during any school year unless licensed personnel are not available.

(4) A person who is ineligible to hold a license for any reason other than professional preparation may not serve as a substitute teacher.

Repealed and Re-enacted by Chapter 108, 1999 General Session

53A-6-110. Administrative/supervisory letters of authorization.

(1) A local school board may request, and the State Board of Education may grant, a letter of authorization permitting a person with outstanding professional qualifications to serve in any position that requires a person to hold an administrative/supervisory license or certificate, including principal, assistant principal, associate principal, vice principal, assistant superintendent, administrative assistant, director, specialist, or other district position.

(2) The State Board of Education may grant a letter of authorization permitting a person with outstanding professional qualifications to serve in any position at the State Office of Education that requires a person to hold an administrative/supervisory license or certificate.

Enacted by Chapter 315, 2003 General Session

53A-6-111. Teacher classifications.

(1) As used in this section:

(a) "Associate teacher" means a person who does not currently hold a level 1, 2, or 3 license, but is permitted to teach in a public school under another authorization.

(b) "Teacher" means a person who currently holds a level 1, 2, or 3 license.

(2) Each school district and school shall identify and distinguish between teachers and associate teachers, including using the appropriate title in all communication with parents, guardians, and members of the public.

(3) Lists of teachers and associate teachers shall be maintained at each school and shall be available for review by any person upon request.

Enacted by Chapter 46, 2004 General Session

53A-6-113. Alternative preparation program -- Work experience requirement.

An individual who is employed at least half time in a position for which a teacher's license is required pursuant to board rule, including a position in an online school or a school that uses digital technologies for instruction or blended learning, satisfies the work experience requirement for participation in an alternative preparation program.

Enacted by Chapter 417, 2014 General Session

53A-6-201. Enactment of compact.

The Compact for Interstate Qualification of Educational Personnel is hereby enacted into law and entered into with all other states legally joining therein.

Enacted by Chapter 2, 1988 General Session

53A-6-202. Purpose and intent of compact -- Findings.

(1) The states party to this compact, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational

person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this compact to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(2) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Enacted by Chapter 2, 1988 General Session

53A-6-203. Definitions.

As used in this compact and contracts made pursuant to it:

(1) The words "educational personnel" mean persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

(2) The words "designated state official" mean the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this compact.

(3) The word "accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

(4) The word "state" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

(5) The words "originating state" mean a state, and the subdivision thereof, if any, whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Section 53A-6-204.

(6) The words "receiving state" mean a state, and the subdivisions thereof, which accept educational personnel in accordance with the terms of a contract made under Section 53A-6-204.

Enacted by Chapter 2, 1988 General Session

53A-6-204. Contracts for acceptance of educational personnel.

(1) The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this compact. A designated state official may enter into a contract pursuant to this section only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

(2) Any such contract shall provide for:

(a) its duration;

(b) the criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state;

(c) such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards; and

(d) any other necessary matters.

(3) No contract made pursuant to this compact shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

(4) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this compact shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(5) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(6) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Enacted by Chapter 2, 1988 General Session

53A-6-205. Effect of compact on other state laws and regulations.

(1) Nothing in this compact shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(2) To the extent that contracts made pursuant to this compact deal with the

educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Enacted by Chapter 2, 1988 General Session

53A-6-206. Agreement by party states.

The party states agree that:

(1) They will, so far as practicable, prefer the making of multi-lateral contracts pursuant to Section 53A-6-204 of this compact.

(2) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Enacted by Chapter 2, 1988 General Session

53A-6-207. Evaluation of compact.

The designated state officials of any party states may meet from time to time as a group to evaluate progress under the compact, and to formulate recommendations for changes.

Enacted by Chapter 2, 1988 General Session

53A-6-208. Scope of compact.

Nothing in this compact shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Enacted by Chapter 2, 1988 General Session

53A-6-209. Effective date -- Withdrawal from compact -- Continuing obligations.

(1) This compact shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this compact.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

(3) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Enacted by Chapter 2, 1988 General Session

53A-6-210. Construction of compact.

This compact shall be liberally construed so as to effectuate the purposes of it. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Enacted by Chapter 2, 1988 General Session

53A-6-211. Superintendent of public instruction as designated state official.

The designated state official for the state of Utah is the superintendent of public instruction.

Enacted by Chapter 2, 1988 General Session

53A-6-301. Utah Professional Practices Advisory Commission.

The Utah Professional Practices Advisory Commission, UPPAC, is established to assist and advise the board in matters relating to the professional practices of educators.

Repealed and Re-enacted by Chapter 108, 1999 General Session

53A-6-302. UPPAC members -- Executive secretary.

(1) UPPAC shall consist of a nonvoting executive secretary and 11 voting members, nine of whom shall be licensed educators in good standing, and two of whom shall be members nominated by the education organization within the state that has the largest membership of parents of students and teachers.

(2) Six of the voting members shall be persons whose primary responsibility is teaching.

(3) (a) The state superintendent of public instruction shall appoint an employee of the office to serve as executive secretary.

(b) Voting members are appointed by the superintendent as provided under Section 53A-6-303.

(4) The office shall provide staff support for UPPAC activities.

Repealed and Re-enacted by Chapter 108, 1999 General Session

53A-6-303. Nominations -- Appointment of commission members -- Reappointments.

(1) (a) The board shall adopt rules establishing procedures for nominating and appointing individuals to voting membership on UPPAC.

(b) Nomination petitions must be filed with the state superintendent prior to June

16 of the year of appointment.

(c) A nominee for appointment as a member of UPPAC as an educator must have been employed in the representative class in the Utah public school system or a private school accredited by the board during the three years immediately preceding the date of appointment.

(2) The state superintendent of public instruction shall appoint the members of the commission.

(3) Appointments begin July 1 and are for terms of three years and until a successor is appointed.

(4) Terms of office are staggered so that approximately 1/3 of UPPAC members are appointed annually.

(5) A member may not serve more than two terms.

Enacted by Chapter 108, 1999 General Session

53A-6-304. Filling of vacancies.

(1) A UPPAC vacancy occurs if a member resigns, fails to attend three or more meetings during a calendar year, or no longer meets the requirements for nomination and appointment.

(2) If a vacancy occurs, the state superintendent shall appoint a successor to fill the unexpired term.

(3) If the superintendent does not fill the vacancy within 60 days, the board shall make the appointment.

(4) Nominations to fill vacancies are submitted to the superintendent in accordance with procedures established under rules of the board.

Enacted by Chapter 108, 1999 General Session

53A-6-305. Meetings and expenses of UPPAC members.

(1) UPPAC shall meet at least quarterly and at the call of the chair or of a majority of the members.

(2) Members of UPPAC serve without compensation but are allowed reimbursement for actual and necessary expenses under the rules of the Division of Finance.

(3) The board shall pay reimbursement to UPPAC members out of the Professional Practices Restricted Subfund in the Uniform School Fund.

Enacted by Chapter 108, 1999 General Session

53A-6-306. Purpose, powers, and duties of UPPAC.

(1) UPPAC shall:

(a) adopt rules consistent with applicable law and board rules to carry out its responsibilities under this chapter;

(b) make recommendations to the board and professional organizations of educators:

(i) concerning standards of professional performance, competence, and ethical

conduct for persons holding licenses issued by the board; and

(ii) for the improvement of the education profession;

(c) establish procedures for receiving and acting upon reports or allegations regarding immoral, unprofessional, or incompetent conduct, unfitness for duty, or other violations of standards of ethical conduct, performance, or professional competence;

(d) investigate any allegation of sexual abuse of a student or a minor by an educator; and

(e) establish the manner in which hearings are conducted and reported, and recommendations are submitted to the board for its action.

(2) (a) UPPAC may conduct or authorize investigations relating to any matter before UPPAC.

(b) Those investigations shall be independent of and separate from any criminal investigation.

(c) In conducting an investigation UPPAC or an investigator operating under UPPAC authorization may:

(i) administer oaths and issue subpoenas which may be enforced through the state district courts;

(ii) receive any evidence related to an alleged offense, including sealed or expunged records released to the board under Section 77-40-109; and

(iii) where reasonable cause exists, initiate a criminal background check on a license holder.

(d) (i) A license holder shall receive written notice if a fingerprint check is required as a part of the background check.

(ii) Fingerprints of the individual shall be taken, and the Law Enforcement and Technical Services Division of the Department of Public Safety shall release the individual's full record, as shown on state, regional, and national records, to UPPAC.

(iii) UPPAC shall pay the cost of the background check except as provided under Section 53A-6-401, and the money collected shall be credited to the Law Enforcement and Technical Services Division to offset its expenses.

(3) UPPAC is entitled to a rebuttable evidentiary presumption that a person has committed a sexual offense against a minor child if the person has:

(a) after having had a reasonable opportunity to contest the allegation, been found pursuant to a criminal, civil, or administrative action to have committed a sexual offense against a minor child;

(b) pled guilty to a reduced charge in the face of a charge of having committed a sexual offense against a minor child, entered a plea of no contest, entered into a plea in abeyance resulting in subsequent dismissal of such a charge, or failed to defend himself against such a charge when given reasonable opportunity to do so; or

(c) voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

(4) In resolving a complaint UPPAC may:

(a) dismiss the complaint;

(b) issue a warning or reprimand;

(c) issue an order of probation requiring an educator to comply with specific conditions in order to retain a license;

- (d) enter into a written agreement requiring an educator to comply with certain conditions;
 - (e) recommend board action such as revocation or suspension of a license or restriction or prohibition of licensure; or
 - (f) take other appropriate action.
- (5) UPPAC may not:
- (a) participate as a party in any dispute relating to negotiations between a school district and its educators;
 - (b) take action against an educator without giving the individual an opportunity for a fair hearing to contest the allegations upon which the action would be based; or
 - (c) take action against an educator unless it finds that the action or the failure of the educator to act impairs the educator's ability to perform the functions of the educator's position.

Amended by Chapter 283, 2010 General Session

53A-6-307. Powers of state board not abrogated.

Nothing in this chapter limits or abrogates the power of the board to issue or revoke licenses, hold hearings, or otherwise carry out its functions.

Enacted by Chapter 108, 1999 General Session

53A-6-401. Background checks.

- (1) (a) A license applicant shall submit to a background check as a condition for licensing.
- (b) As used in this section, licensing includes reinstatement of a lapsed, suspended, or revoked license.
- (2) Where reasonable cause exists, the State Board of Education may require an educator to submit to a criminal background check.
- (3) (a) The office shall establish a procedure for obtaining and evaluating relevant information concerning license applicants, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.
- (b) The Criminal Investigations and Technical Services Division shall release to the office all information received in response to the office's request.
- (c) The Criminal Investigations and Technical Services Division shall maintain a separate file of fingerprints submitted under Subsection (3)(a) and notify the office when a new entry is made against a person whose fingerprints are held in the file regarding any matters involving an alleged:
 - (i) sexual offense;
 - (ii) drug-related offense;
 - (iii) alcohol-related offense; or
 - (iv) offense against the person under Title 76, Chapter 5, Offenses Against the Person.
- (d) The cost of maintaining the separate file shall be paid by the office from fees

charged to those submitting fingerprints.

(4) An applicant or educator shall have an opportunity to respond to any information received by the office as a result of the background check.

(5) In preparing recommendations concerning licensing for submission to the board, the office shall consider only the following matters obtained through fingerprint checks to the extent that they are relevant to the license sought by the applicant or held by the educator:

- (a) convictions, including pleas in abeyance;
- (b) any matters involving an alleged sexual offense;
- (c) any matters involving an alleged felony or class A misdemeanor drug offense;
- (d) any matters involving an alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person;
- (e) any matters involving a felony;
- (f) any matters involving a class A misdemeanor property offense alleged to have occurred within the previous three years; and
- (g) any matters involving any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have taken place within the previous eight years.

(6) If a recommendation is made for denial, suspension, or revocation of licensure because of information obtained through a background check, the person shall receive written notice of the reasons for the recommendation and have an opportunity to respond in accordance with procedures set forth under board rules.

(7) Information obtained under this section is confidential and may only be disclosed as provided in this part.

(8) The applicant shall pay the costs of conducting the background check required pursuant to Subsection (1).

(9) This section applies to matters occurring both before and after the effective date of this section.

Amended by Chapter 362, 2010 General Session

53A-6-402. Evaluation information on current or prospective school employees -- Notice to employee -- Exemption from liability.

(1) (a) The office's administrator of teacher licensing may provide the appropriate administrator of a public or private school or of an agency outside the state which is responsible for licensing or certification of educators with any recommendation or other information possessed by the office which has significance in evaluating the employment or license of a current or prospective school employee, license holder, or applicant for licensing.

(b) Information supplied under Subsection (1)(a) may include the complete record of a hearing or the investigative report for matters which:

- (i) the educator has had an opportunity to contest; and
- (ii) did not proceed to a hearing.

(2) At the request of the office's administrator of teacher licensing, an administrator of a public school or school district shall, and an administrator of a private

school may, provide any recommendation or other information possessed by the school or school district which has significance in evaluating the employment or licensure of a current or prospective school employee, license holder, or applicant for licensing.

(3) If a decision is made to deny licensure, to not hire a prospective employee, or to take action against a current employee or educator based upon information provided under this section, the affected individual shall receive notice of the information and be given an opportunity to respond to the information.

(4) A person who, in good faith, provides a recommendation or discloses or receives information under this section is exempt from civil and criminal liability relating to that recommendation, receipt, or disclosure.

(5) For purposes of this section, "employee" includes a volunteer.

Repealed and Re-enacted by Chapter 108, 1999 General Session

53A-6-403. Office tie-in with the Criminal Investigations and Technical Services Division.

(1) The office shall:

(a) be an online terminal agency with the Department of Public Safety's Criminal Investigations and Technical Services Division under Section 53-10-108; and

(b) provide relevant information concerning current or prospective employees or volunteers upon request to other school officials as provided in Section 53A-6-402.

(2) The cost of the online service shall be borne by the entity making the inquiry, using funds available to the entity, which may include funds authorized under Section 53A-6-401.

Enacted by Chapter 108, 1999 General Session

53A-6-404. Certification in other jurisdictions -- Impact on licensing in Utah.

(1) An applicant for a license, renewal of a license, or reinstatement of a license shall provide the administrator of teacher licensing with an affidavit, stating under oath the current status of any certificate, license, or other authorization required for a professional position in education, which the applicant holds or has held in any other jurisdiction.

(2) An applicant for a license who has held a teacher's license in any other jurisdiction or who graduated from an institution of higher education in another state shall also provide the administrator of teacher licensing with:

(a) a complete listing of the higher education institutions attended by the applicant, whether the applicant's enrollment or eligibility for completion of a program was terminated by the institution, and, if so, the reasons for termination;

(b) a complete list of prior school employers; and

(c) a release on a form provided by the administrator permitting the office to obtain records from other jurisdictions and from institutions of higher education attended by the applicant, including expunged or otherwise protected records, relating to any offense described substantially in the same language as in Subsection 53A-6-401(5).

(3) If the applicant's certificate, license, or authorization as an educator in any other jurisdiction is under investigation, has expired or been surrendered, suspended or revoked, or is currently not valid for any other reason, the office may not grant the requested license, renewal, or reinstatement until it has received confirmation from the administrator of professional certification in that jurisdiction that the applicant would be eligible for certification or licensure in that jurisdiction.

(4) The office may not withhold a license for the sole reason that the applicant would be ineligible for certification, licensure, or authorization in the jurisdiction referred to in Subsection (3) because of failure to meet current requirements in that jurisdiction relating to education, time in service, or residence.

Amended by Chapter 103, 2000 General Session

53A-6-405. Denial of license.

(1) The board may refuse to issue a license to any person for good cause shown, including any person who, after having had a reasonable opportunity to contest the allegation, has been found pursuant to a criminal, civil, or administrative action to have exhibited behavior evidencing unfitness for duty, including behavior which would, had the person been an educator, have been considered to be immoral, unprofessional, or incompetent conduct, or a violation of standards of ethical conduct, performance, or professional competence.

(2) (a) Upon receipt of findings and recommendations from UPPAC, including the findings and recommendations, if any, of a hearing requested under Subsection (4), the board may issue a permanent ban on licensure of any person who has committed a sexual offense against a minor child.

(b) A permanent ban issued under this Subsection (2) is not subject to further review by UPPAC.

(3) A person ineligible for licensure under Subsection (2) may not be employed or permitted to volunteer services in any position in a public or private school where the person would be in close proximity to minor children or be permitted or required to interact with a minor child.

(4) (a) A person denied licensure or employment under this section may, within 30 days of receipt of the denial and notice of rights of appeal, request a hearing before UPPAC to review and respond to all evidence upon which the denial was based.

(b) UPPAC shall prepare findings and recommendations for the board on any hearing held under Subsection (4)(a).

Enacted by Chapter 108, 1999 General Session

53A-6-501. Disciplinary action against educator.

(1) (a) The board shall take appropriate action against a person who is, or at the time of an alleged offense was, the holder of a license, and:

(i) who, after having had a reasonable opportunity to contest the allegation, has been found pursuant to a criminal, civil, or administrative action to have exhibited behavior evidencing unfitness for duty, including immoral, unprofessional, or incompetent conduct, or other violation of standards of ethical conduct, performance, or

professional competence; or

(ii) who has been alleged to have exhibited such behavior or committed such a violation.

(b) Prior to taking action based upon an allegation or the decision of an administrative body other than UPPAC, the board shall direct UPPAC to review the allegations and any related administrative action and provide findings and recommendations to the board.

(c) No adverse recommendation may be made without giving the accused person an opportunity for a hearing.

(d) The board's action may include:

(i) revocation or suspension of a license;

(ii) restriction or prohibition of recertification;

(iii) a warning or reprimand;

(iv) required participation in and satisfactory completion of a rehabilitation or remediation program; or

(v) other action which the board finds to be appropriate after a review of the UPPAC findings and recommendations.

(e) The license holder is responsible for the costs of rehabilitation or remediation required under this section.

(2) (a) Upon receipt of findings or recommendations from UPPAC, the board shall permanently revoke the license of a person who:

(i) is convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;

(ii) engages in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor; or

(iii) engages in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:

(A) not a minor; and

(B) enrolled in a school where the person is employed.

(b) Upon receipt of findings or recommendation from UPPAC, the board may permanently revoke the license of a person who has exhibited other behavior which the board finds to be irremediable.

Amended by Chapter 320, 2011 General Session

53A-6-502. Mandatory reporting of physical or sexual abuse of students.

(1) For purposes of this section, "educator" means, in addition to a person included under Section 53A-6-103, a person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a private school for which a license would be required in a public school.

(2) In addition to any duty to report suspected cases of child abuse or neglect under Section 62A-4a-403, an educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report the belief and all other relevant information to the school principal, superintendent, or to the office.

(3) A school administrator who has received a report under Subsection (2) or

who otherwise has reasonable cause to believe that a student may have been physically or sexually abused by an educator shall immediately report that information to the office.

(4) Failure to comply with Subsection (2) or (3) shall be considered unprofessional conduct.

(5) A person who makes a report under this section in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.

Amended by Chapter 315, 2003 General Session

53A-6-503. Reimbursement of legal fees and costs to educators.

(1) As used in this section:

(a) "Action" means any action, except those referred to in Section 52-6-201, brought against an educator by an individual or entity other than:

(i) the entity who licenses the educator; and
(ii) the school district that employs the educator or employed the educator at the time of the alleged act or omission.

(b) "Educator" means an individual who holds or is required to hold a license under this chapter and is employed by a school district located within the state.

(c) "School district" includes the Schools for the Deaf and the Blind and the state's applied technology centers.

(2) Except as otherwise provided in Section 52-6-201, an educator is entitled to recover reasonable attorneys' fees and costs incurred in the educator's defense against an individual or entity who initiates an action against the educator if:

(a) the action is brought for any act or omission of the educator during the performance of the educator's duties within the scope of the educator's employment; and

(b) it is dismissed or results in findings favorable to the educator.

(3) An educator who recovers under this section is also entitled to recover reasonable attorneys' fees and costs necessarily incurred by the educator in recovering the attorneys' fees and costs allowed under Subsection (2).

Amended by Chapter 382, 2008 General Session

53A-6-601. Definition.

As used in this part "hearing" means a proceeding held in accordance with generally accepted principles of due process and administrative law in which definite issues of fact or of law are tried before a hearing body, and in which proceeding evidence is presented and witnesses heard, and in which the party against whom the proceedings are held has a right to:

(1) appear with or without counsel to present evidence, confront and cross-examine witnesses, or subpoena witnesses; and

(2) obtain a decision based solely upon evidence presented to the hearing body in the presence of both parties or representatives of both parties, recognizing that presence is satisfied if a party has been given a reasonable opportunity to attend, even if the party fails to do so.

Enacted by Chapter 108, 1999 General Session

53A-6-602. Designation of hearing officer or panel -- Review of findings.

(1) UPPAC or a state or local school board charged with responsibility for conducting a hearing may conduct the hearing itself or appoint a hearing officer or panel to conduct the hearing and make recommendations concerning findings.

(2) UPPAC or the school board shall review the record of the hearing and the recommendations, and may obtain and review, in the presence of the parties or their representatives, additional relevant information, prior to issuing official findings.

(3) UPPAC shall provide a panel of its members to serve as fact finders in a hearing at the request of the educator who is the subject of the hearing.

Enacted by Chapter 108, 1999 General Session

53A-6-603. Administering of oaths -- Issuance of subpoenas.

(1) UPPAC or a state or local school board charged with responsibility for conducting an investigation or a hearing under this chapter may administer oaths and issue subpoenas in connection with the investigation or hearing.

(2) If a hearing is before a hearing officer or panel, the hearing officer or panel may administer oaths, and the appointing body may issue subpoenas upon the request of the hearing officer or panel.

(3) Subpoenas shall be enforced upon the petition of the issuing body by the district court in the jurisdiction where the subpoena was issued, in the same manner as subpoenas issued by the court.

Enacted by Chapter 108, 1999 General Session

53A-6-604. Rules for conducting hearings -- Standard of proof.

(1) The board, each local school board, and UPPAC shall each adopt rules for the conduct of hearings to ensure that requirements of due process are met.

(2) An accused party shall be provided not less than 15 days before a hearing with:

- (a) notice of the hearing;
- (b) the law, rule, or policy alleged to have been violated;
- (c) sufficient information about the allegations and the evidence to be presented in support of the allegations to permit the accused party to prepare a meaningful defense; and

(d) a copy of the rules under which the hearing will be conducted.

(3) If an accused party fails to request a hearing within 30 days after written notice is sent to the party's address as shown on the records of the local board, for actions taken under the auspices of a local board, or on the records of the office, for actions taken under the auspices of UPPAC or the state board, then the accused party shall be considered to have waived the right to a hearing and the action may proceed without further delay.

(4) Hearing fact finders shall use the preponderance of evidence standard in

deciding all questions unless a higher standard is required by law.

(5) Unless otherwise provided in Title 53A, the decisions of state and local boards are final determinations under this section, appealable to the appropriate court for review.

Enacted by Chapter 108, 1999 General Session

53A-6-801. Definition.

As used in this part, "paraeducator" means a school employee who:

- (1) delivers instruction under the direct supervision of a teacher; and
- (2) works in an area where there is a shortage of qualified teachers, such as special education, Title I, ESL, reading remediation, math, or science.

Enacted by Chapter 144, 2008 General Session

53A-6-802. Paraeducator to Teacher Scholarship Program.

(1) The Paraeducator to Teacher Scholarship Program is created to award scholarships to paraeducators for education and training to become licensed teachers.

(2) The State Board of Education shall use money appropriated for the Paraeducator to Teacher Scholarship Program to award scholarships of up to \$5,000 to paraeducators employed by school districts and charter schools who are pursuing an associate's degree or bachelor's degree program to become a licensed teacher.

(3) A paraeducator is eligible to receive a scholarship if:

- (a) the paraeducator is employed by a school district or charter school;
- (b) is admitted to, or has made an application to, an associate's degree program or bachelor's degree program that will prepare the paraeducator for teacher licensure; and
- (c) the principal at the school where the paraeducator is employed has nominated the paraeducator for a scholarship.

(4) (a) The State Board of Education shall establish a committee to select scholarship recipients from nominations submitted by school principals.

(b) The committee shall include representatives of the State Board of Education, State Board of Regents, and the general public, excluding school district and charter school employees.

(c) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(d) The committee shall select scholarship recipients based on the following criteria:

- (i) test scores, grades, or other evidence demonstrating the applicant's ability to successfully complete a teacher education program; and
 - (ii) the applicant's record of success as a paraeducator.
- (5) The maximum scholarship amount is \$5,000.

- (6) Scholarship money may only be used to pay for tuition costs:
 - (a) of:
 - (i) an associate's degree program that fulfills credit requirements for the first two years of a bachelor's degree program leading to teacher licensure; or
 - (ii) the first two years of a bachelor's degree program leading to teacher licensure; and
 - (b) at a higher education institution:
 - (i) located in Utah; and
 - (ii) accredited by the Northwest Commission on Colleges and Universities.
- (7) A scholarship recipient must be continuously employed as a paraeducator by a school district or charter school while pursuing a degree using scholarship money.
- (8) The State Board of Education shall make rules in accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the Paraeducator to Teacher Scholarship Program, including rules establishing:
 - (a) scholarship application procedures;
 - (b) the number of, and qualifications for, committee members who select scholarship recipients; and
 - (c) procedures for distributing scholarship money.

Amended by Chapter 286, 2010 General Session

53A-6-901. Grants for math teacher training programs.

- (1) If the state obtains matching funds of equal sums from private contributors, the board may award grants to institutions of higher education or nonprofit educational organizations for programs that provide mentoring and training leading to a secondary education license with an endorsement in mathematics for an individual who:
 - (a) is not a teacher in a public or private school;
 - (b) does not have a teaching license;
 - (c) has a bachelor's degree or higher; and
 - (d) demonstrates a high level of mathematics competency by:
 - (i) successfully completing substantial course work in mathematics; and
 - (ii) passing a mathematics content exam.
- (2) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish criteria for awarding grants under this section.
- (b) In awarding grants, the board shall consider the amount or percent of matching funds provided by the grant recipient.

Enacted by Chapter 287, 2012 General Session

53A-7-101. Mediation of contract negotiations.

- (1) The president of a professional local organization which represents a majority of the licensed employees of a school district or the chairman or president of a local school board may, after negotiating for 90 days, declare an impasse by written notification to the other party and to the State Board of Education.
- (2) The party declaring the impasse may request the state superintendent of

public instruction to appoint a mediator for the purpose of helping to resolve the impasse if the parties to the dispute have not been able to agree on a third party mediator.

(3) Within five working days after receipt of the written request, the state superintendent shall appoint a mediator who is mutually acceptable to the local school board and the professional organization representing a majority of the licensed employees.

(4) The mediator shall meet with the parties, either jointly or separately, and attempt to settle the impasse.

(5) The mediator may not, without the consent of both parties, make findings of fact or recommend terms for settlement.

(6) Both parties shall equally share the costs of mediation.

(7) Nothing in this section prevents the parties from adopting a written mediation procedure other than that provided in this section.

(8) If the parties have a mediation procedure, they shall follow that procedure.

Amended by Chapter 224, 2000 General Session

53A-7-102. Appointment of hearing officer -- Hearing process.

(1) If a mediator appointed under Section 53A-7-101 is unable to effect settlement of the controversy within 15 working days after his appointment, either party to the mediation may by written notification to the other party and to the state superintendent of public instruction request that their dispute be submitted to a hearing officer who shall make findings of fact and recommend terms of settlement.

(2) Within five working days after receipt of the request, the state superintendent of public instruction shall appoint a hearing officer who is mutually acceptable to the local school board and the professional organization representing a majority of the certificated employees.

(3) The hearing officer may not, without consent of both parties, be the same person who served as mediator.

(4) The hearing officer shall meet with the parties, either jointly or separately, may make inquiries and investigations, and may issue subpoenas for the production of persons or documents relevant to all issues in dispute.

(5) The State Board of Education and departments, divisions, authorities, bureaus, agencies, and officers of the state, local school boards, and the professional organization shall furnish the hearing officer, on request, all relevant records, documents, and information in their possession.

(6) If the final positions of the parties are not resolved before the hearing ends, the hearing officer shall prepare a written report containing the agreements of the parties with respect to all resolved negotiated contract issues and the positions that the hearing officer considers appropriate on all unresolved final positions of the parties.

(7) The hearing officer shall submit the report to the parties privately within 10 working days after the conclusion of the hearing or within the date established for the submission of posthearing briefs, but not later than 20 working days after the hearing officer's appointment.

(8) Either the hearing officer, the professional organization, or the local board

may make the report public if the dispute is not settled within 10 working days after its receipt from the hearing officer.

(9) (a) The state superintendent of public instruction may determine the majority status of any professional organization which requests assistance under this section.

(b) The decision of the superintendent is final unless it is clearly inconsistent with the evidence.

Repealed and Re-enacted by Chapter 108, 1999 General Session

53A-8a-101. Title.

This chapter is known as the "Public Education Human Resource Management Act."

Enacted by Chapter 425, 2012 General Session

53A-8a-102. Definitions.

As used in this chapter:

(1) "Career employee" means an employee of a school district who has obtained a reasonable expectation of continued employment based upon Section 53A-8a-201 and an agreement with the employee or the employee's association, district practice, or policy.

(2) "Contract term" or "term of employment" means the period of time during which an employee is engaged by the school district under a contract of employment, whether oral or written.

(3) "Dismissal" or "termination" means:

(a) termination of the status of employment of an employee;

(b) failure to renew or continue the employment contract of a career employee beyond the then-current school year;

(c) reduction in salary of an employee not generally applied to all employees of the same category employed by the school district during the employee's contract term; or

(d) change of assignment of an employee with an accompanying reduction in pay, unless the assignment change and salary reduction are agreed to in writing.

(4) (a) "Employee" means a career or provisional employee of a school district, except as provided in Subsection (4)(b).

(b) For purposes of Part 2, Status of Employment, Part 4, Educator Evaluations, and Part 5, Orderly School Termination Procedures, "employee" does not include:

(i) the district superintendent, or the equivalent at the Schools for the Deaf and the Blind;

(ii) the district business administrator or the equivalent at the Schools for the Deaf and the Blind; or

(iii) a temporary employee.

(5) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates the termination of an employee who started to work for the district most recently before terminating a more senior employee.

(6) "Provisional employee" means an individual, other than a career employee

or a temporary employee, who is employed by a school district.

(7) "School board" or "board" means a district school board or its equivalent at the Schools for the Deaf and the Blind.

(8) "School district" or "district" means:

(a) a public school district; or

(b) the Schools for the Deaf and the Blind.

(9) "Temporary employee" means an individual who is employed on a temporary basis as defined by policies adopted by the local board of education. If the class of employees in question is represented by an employee organization recognized by the local board, the board shall adopt its policies based upon an agreement with that organization. Temporary employees serve at will and have no expectation of continued employment.

(10) (a) "Unsatisfactory performance" means a deficiency in performing work tasks which may be:

(i) due to insufficient or undeveloped skills, lack of knowledge or aptitude, poor attitude, or insufficient effort; and

(ii) remediated through training, study, mentoring, practice, or greater effort.

(b) "Unsatisfactory performance" does not include the following conduct that is designated as a cause for termination under Section 53A-8a-501 or a reason for license discipline by the State Board of Education or Utah Professional Practices Advisory Commission:

(i) a violation of work rules;

(ii) a violation of local school board policies, State Board of Education rules, or law;

(iii) a violation of standards of ethical, moral, or professional conduct; or

(iv) insubordination.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-201. Career employee status for provisional employees -- Career status in the event of change of position -- Continuation of probationary status when position changes -- Temporary status for extra duty assignments -- Employees not eligible for career status.

(1) (a) A provisional employee must work for a school district on at least a half-time basis for three consecutive years to obtain career employee status.

(b) A school district may extend the provisional status of an employee up to an additional two consecutive years in accordance with a written policy adopted by the district's school board that specifies the circumstances under which an employee's provisional status may be extended.

(2) Policies of an employing school district shall determine the status of a career employee in the event of the following:

(a) the employee accepts a position which is substantially different from the position in which career status was achieved; or

(b) the employee accepts employment in another school district.

(3) If an employee who is under an order of probation or remediation in one assignment in a school district is transferred or given a new assignment in the district,

the order shall stand until its provisions are satisfied.

(4) An employee who is given extra duty assignments in addition to a primary assignment, such as a teacher who also serves as a coach or activity advisor, is a temporary employee in those extra duty assignments and may not acquire career status beyond the primary assignment.

(5) A person is an at-will employee and is not eligible for career employee status if the person:

(a) is a teacher who holds a competency-based license pursuant to Section 53A-6-104.5 and does not hold a level 1, 2, or 3 license as defined in Section 53A-6-103; or

(b) holds an administrative/supervisory letter of authorization pursuant to Section 53A-6-110.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-301. Evaluation of employee performance.

(1) Except as provided in Subsection (2), a local school board shall require that the performance of each school district employee be evaluated annually in accordance with rules of the State Board of Education adopted in accordance with this chapter and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Rules adopted by the State Board of Education under Subsection (1) may include an exemption from annual performance evaluations for temporary or part-time employees.

(b) As provided by Section 53A-8a-405, a provisional or probationary educator shall be evaluated at least twice each school year.

Enacted by Chapter 425, 2012 General Session

53A-8a-302. State Board of Education rules -- Reporting to Legislature.

(1) Subject to Part 4, Educator Evaluations, and Part 7, Evaluation and Compensation of Administrators, rules adopted by the State Board of Education under Section 53A-8a-301 shall:

(a) provide general guidelines, requirements, and procedures for the development and implementation of employee evaluations;

(b) establish required components and allow for optional components of employee evaluations;

(c) require school districts to choose valid and reliable methods and tools to implement the evaluations; and

(d) establish a timeline for school districts to implement employee evaluations.

(2) The State Board of Education shall report to the Education Interim Committee, as requested, on progress in implementing employee evaluations in accordance with this part, Part 4, Educator Evaluations, and Part 7, Evaluation and Compensation of Administrators.

Enacted by Chapter 425, 2012 General Session

53A-8a-401. Legislative findings.

(1) The Legislature recognizes that the quality of public education can be improved and enhanced by systematic, fair, and competent annual evaluation of public educators and remediation of those whose performance is inadequate.

(2) In accordance with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b), the desired purposes of evaluation are to:

(a) allow the educator and the school district to promote the professional growth of the educator; and

(b) identify and encourage quality instruction in order to improve student achievement.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-402. Definitions.

As used in this chapter:

(1) "Career educator" means a licensed employee who has a reasonable expectation of continued employment under the policies of a local school board.

(2) "Educator" means an individual employed by a school district who is required to hold a professional license issued by the State Board of Education, except:

(a) a superintendent; or

(b) an individual who:

(i) works fewer than three hours per day; or

(ii) is hired for less than half of a school year.

(3) "Probationary educator" means an educator employed by a school district who, under local school board policy, has been advised by the district that the educator's performance is inadequate.

(4) "Provisional educator" means an educator employed by a school district who has not achieved status as a career educator within the school district.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-403. Establishment of educator evaluation program -- Joint committee.

(1) A local school board shall develop an educator evaluation program in consultation with its joint committee.

(2) The joint committee described in Subsection (1) shall consist of an equal number of classroom teachers, parents, and administrators appointed by the local school board.

(3) A local school board may appoint members of the joint committee from a list of nominees:

(a) voted on by classroom teachers in a nomination election;

(b) voted on by the administrators in a nomination election; and

(c) of parents submitted by school community councils within the district.

(4) Subject to Subsection (5), the joint committee may:

(a) adopt or adapt an evaluation program for teachers based on a model developed by the State Board of Education; or

- (b) create its own evaluation program for teachers.
- (5) The evaluation program developed by the joint committee must comply with the requirements of this part and rules adopted by the State Board of Education under Section 53A-8a-409.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-404. Evaluation orientation.

- (1) The principal of each school shall orient all educators assigned to the school concerning the school board's educator evaluation program, including the purpose of the evaluations and the method used to evaluate.
- (2) Evaluations may not occur prior to the orientation by the principal.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-405. Components of educator evaluation program.

An educator evaluation program adopted by a local school board in consultation with a joint committee established in Section 53A-8a-403 shall include the following components:

- (1) a reliable and valid evaluation program consistent with generally accepted professional standards for personnel evaluation systems;
- (2) (a) the evaluation of provisional and probationary educators at least twice each school year; and
 - (b) the annual evaluation of all career educators;
 - (3) systematic evaluation procedures for both provisional and career educators;
 - (4) the use of multiple lines of evidence, such as:
 - (a) self-evaluation;
 - (b) student and parent input;
 - (c) peer observation;
 - (d) supervisor observations;
 - (e) evidence of professional growth;
 - (f) student achievement data; and
 - (g) other indicators of instructional improvement;
 - (5) a reasonable number of observation periods for an evaluation to insure adequate reliability;
 - (6) administration of an educator's evaluation by:
 - (a) the principal;
 - (b) the principal's designee;
 - (c) the educator's immediate supervisor; or
 - (d) another person specified in the evaluation program;
 - (7) an orientation for educators on the educator evaluation program; and
 - (8) a summative evaluation that differentiates among four levels of performance.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-406. Summative evaluation timelines -- Review of summative

evaluations.

(1) The person responsible for administering an educator's summative evaluation shall:

(a) at least 15 days before an educator's first evaluation:

(i) notify the educator of the evaluation process; and

(ii) give the educator a copy of the evaluation instrument, if an instrument is used;

(b) (i) allow the educator to make a written response to any part of the evaluation; and

(ii) attach the educator's response to the evaluation;

(c) within 15 days after the evaluation process is completed, discuss the written evaluation with the educator; and

(d) following any revision of the written evaluation made after the discussion:

(i) file the evaluation and any related reports or documents in the educator's personnel file; and

(ii) give a copy of the written evaluation and attachments to the educator.

(2) An educator who is not satisfied with a summative evaluation may request a review of the evaluation within 15 days after receiving the written evaluation.

(3) (a) If a review is requested, the school district superintendent or the superintendent's designee shall appoint a person not employed by the school district who has expertise in teacher or personnel evaluation to review the evaluation procedures and make recommendations to the superintendent regarding the educator's summative evaluation.

(b) The State Board of Education shall make rules prescribing standards for an independent review of an educator's summative evaluation.

(c) A review of an educator's summative evaluation under Subsection (3)(a) shall be conducted in accordance with State Board of Education rules made under Subsection (3)(b).

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-407. Deficiencies -- Improvement.

(1) The person responsible for administering an educator's evaluation shall give an educator whose performance is inadequate or in need of improvement a written document clearly identifying:

(a) specific, measurable, and actionable deficiencies;

(b) the available resources that will be provided for improvement; and

(c) a recommended course of action that will improve the educator's performance.

(2) An educator is responsible for improving performance, including using any resources identified by the school district, and demonstrating acceptable levels of improvement in the designated areas of deficiencies.

(3) Subsections (1)(b), (1)(c), and (2) do not apply if the educator's unsatisfactory performance was documented for the same deficiency within the previous three years and a plan of assistance was implemented as provided in Section 53A-8a-503.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-408. Mentor for provisional educator.

(1) In accordance with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b), the principal or immediate supervisor of a provisional educator shall assign a person who has received training or will receive training in mentoring educators as a mentor to the provisional educator.

(2) Where possible, the mentor shall be a career educator who performs substantially the same duties as the provisional educator and has at least three years of educational experience.

(3) The mentor shall assist the provisional educator to become effective and competent in the teaching profession and school system, but may not serve as an evaluator of the provisional educator.

(4) An educator who is assigned as a mentor may receive compensation for those services in addition to the educator's regular salary.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-409. State Board of Education to establish a framework for the evaluation of educators.

The State Board of Education shall make rules:

(1) establishing a framework for the evaluation of educators that is consistent with the requirements of Part 3, Employee Evaluations, and this part;

(2) requiring a teacher's summative evaluation to be based on:

(a) student learning growth or achievement, if measures of student learning growth are not available; and

(b) standards of instructional quality; and

(3) requiring each school district to fully implement an evaluation system for educators in accordance with the framework established by the State Board of Education no later than the 2015-16 school year.

Amended by Chapter 262, 2014 General Session

53A-8a-410. Report of educator ratings.

(1) A school district shall report to the State Board of Education the number and percent of educators in each of the four rating categories referred to in Section 53A-8a-405 based on an educator's annual evaluation.

(2) The data reported under Subsection (1) shall be separately reported for the following educator classifications:

(a) administrators;

(b) teachers; and

(c) educators other than administrators or teachers.

(3) The data reported by school districts under this section shall be included in the state superintendent's annual report of the public school system required by Section 53A-1-301.

(4) The State Board of Education shall make rules to ensure the privacy and protection of individual evaluation data.

Enacted by Chapter 425, 2012 General Session

53A-8a-501. Local school board to establish dismissal procedures.

(1) A local school board shall, by contract with its employees or their associations, or by resolution of the board, establish procedures for dismissal of employees in an orderly manner without discrimination.

(2) The procedures shall include:

(a) standards of due process;

(b) causes for dismissal; and

(c) procedures and standards related to developing and implementing a plan of assistance for a career employee whose performance is unsatisfactory.

(3) Procedures and standards for a plan of assistance adopted under Subsection (2)(c) shall require a plan of assistance to identify:

(a) specific, measurable, and actionable deficiencies;

(b) the available resources provided for improvement; and

(c) a course of action to improve employee performance.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-502. Dismissal procedures.

(1) A district shall provide employees with a written statement specifying:

(a) the causes under which a career employee's contract may not be renewed or continued beyond the current school year;

(b) the causes under which a career or provisional employee's contract may be terminated during the contract term; and

(c) the orderly dismissal procedures that are used by the district in cases of contract termination, discontinuance, or nonrenewal.

(2) A career employee's contract may be terminated during its term for reasons of unsatisfactory performance or discontinued beyond the current school year for reasons of unsatisfactory performance as provided in Section 53A-8a-503.

(3) (a) A district is not required to provide a cause for not offering a contract to a provisional employee.

(b) If a district intends to not offer a contract for a subsequent term of employment to a provisional employee, the district shall give notice of that intention to the employee at least 60 days before the end of the provisional employee's contract term.

(4) In the absence of a notice, an employee is considered employed for the next contract term with a salary based upon the salary schedule applicable to the class of employee into which the individual falls.

(5) If a district intends to not renew or discontinue the contract of a career employee or to terminate a career or provisional employee's contract during the contract term:

(a) the district shall give written notice of the intent to the employee;

(b) the notice shall be served by personal delivery or by certified mail addressed to the employee's last-known address as shown on the records of the district;

(c) the district shall give notice at least 30 days prior to the proposed date of termination;

(d) the notice shall state the date of termination and the detailed reasons for termination;

(e) the notice shall advise the employee that the employee has a right to a fair hearing and that the hearing is waived if it is not requested within 15 days after the notice of termination was either personally delivered or mailed to the employee's most recent address shown on the district's personnel records; and

(f) the notice shall state that failure of the employee to request a hearing in accordance with procedures set forth in the notice constitutes a waiver of that right and that the district may then proceed with termination without further notice.

(6) (a) The procedure under which a contract is terminated during its term may include a provision under which the active service of the employee is suspended pending a hearing if it appears that the continued employment of the individual may be harmful to students or to the district.

(b) Suspension pending a hearing may be without pay if an authorized representative of the district determines, after providing the employee with an opportunity for an informal conference to discuss the allegations, that it is more likely than not that the allegations against the employee are true.

(c) If termination is not subsequently ordered, the employee shall receive back pay for the period of suspension without pay.

(7) The procedure under which an employee's contract is terminated during its term shall provide for a written notice of suspension or final termination including findings of fact upon which the action is based.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-503. Nonrenewal or termination of a career employee's contract for unsatisfactory performance.

(1) If a district intends to not renew a career employee's contract for unsatisfactory performance or terminate a career employee's contract during the contract term for unsatisfactory performance, the district shall:

(a) provide and discuss with the career employee written documentation clearly identifying the deficiencies in performance;

(b) provide written notice that the career employee's contract is subject to nonrenewal or termination if, upon a reevaluation of the career employee's performance, the career employee's performance is determined to be unsatisfactory;

(c) develop and implement a plan of assistance, in accordance with procedures and standards established by the local school board under Section 53A-8a-501, to allow the career employee an opportunity to improve performance;

(d) reevaluate the career employee's performance; and

(e) if the career employee's performance remains unsatisfactory, give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection 53A-8a-502(5).

- (2) (a) The period of time for implementing a plan of assistance:
- (i) may not exceed 120 school days, except as provided under Subsection (2)(b);
 - (ii) may continue into the next school year;
 - (iii) should be sufficient to successfully complete the plan of assistance; and
 - (iv) shall begin when the career employee receives the written notice provided under Subsection (1)(b) and end when the determination is made that the career employee has successfully remediated the deficiency or notice of intent to not renew or terminate the career employee's contract is given in accordance with Subsection 53A-8a-502(5).
- (b) In accordance with local school board policy, the period of time for implementing a plan of assistance may extend beyond 120 school days if:
- (i) a career employee is on leave from work during the time period the plan of assistance is scheduled to be implemented; and
 - (ii) (A) the leave was approved and scheduled before the written notice was provided under Subsection (1)(b); or
 - (B) the leave is specifically approved by the local school board.
- (3) (a) If upon a reevaluation of the career employee's performance, the district determines the career employee's performance is satisfactory, and within a three-year period after the initial documentation of unsatisfactory performance for the same deficiency pursuant to Subsection (1)(a), the career employee's performance is determined to be unsatisfactory, the district may elect to not renew or terminate the career employee's contract.
- (b) If a district intends to not renew or terminate a career employee's contract as provided in Subsection (3)(a), the district shall:
- (i) provide written documentation of the career employee's deficiencies in performance; and
 - (ii) give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection 53A-8a-502(5).

Enacted by Chapter 425, 2012 General Session

53A-8a-504. Hearings before district board or hearing officers -- Rights of the board and the employee -- Subpoenas -- Appeals.

- (1) (a) Hearings are held under this chapter before the board or before hearing officers selected by the board to conduct the hearings and make recommendations concerning findings.
- (b) The board shall establish procedures to appoint hearing officers.
- (c) The board may delegate its authority to a hearing officer to make decisions relating to the employment of an employee which are binding upon both the employee and the board.
- (d) This Subsection (1) does not limit the right of the board or the employee to appeal to an appropriate court of law.
- (2) At the hearings, an employee has the right to counsel, to produce witnesses, to hear testimony against the employee, to cross-examine witnesses, and to examine documentary evidence.

(3) Subpoenas may be issued and oaths administered as provided under Section 53A-6-603.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-505. Necessary staff reduction not precluded -- Last-hired, first-fired layoffs prohibited.

(1) Nothing in this chapter prevents staff reduction if necessary to reduce the number of employees because of the following:

- (a) declining student enrollments in the district;
- (b) the discontinuance or substantial reduction of a particular service or program;
- (c) the shortage of anticipated revenue after the budget has been adopted; or
- (d) school consolidation.

(2) A school district may not utilize a last-hired, first-fired layoff policy when terminating school district employees.

(3) A school district may consider the following factors when terminating a school district employee:

- (a) the results of an employee's performance evaluation; and
- (b) a school's personnel needs.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-506. Restriction on transfer of employee with unsatisfactory performance.

An employee whose performance is unsatisfactory may not be transferred to another school unless the local school board specifically approves the transfer of the employee.

Enacted by Chapter 425, 2012 General Session

53A-8a-601. State Board of Education to make rules on performance compensation.

(1) The State Board of Education shall make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation system.

(2) Rules adopted under Subsection (1) shall:

- (a) establish a timeline for developing and implementing an employee compensation system that is aligned with an annual evaluation system; and
- (b) provide that beginning no later than the 2016-17 school year:
 - (i) any advancement on an adopted wage or salary schedule shall be based primarily on an evaluation; and
 - (ii) an employee may not advance on an adopted wage or salary schedule if the employee's rating on the most recent evaluation is at the lowest level of an evaluation instrument.

Amended by Chapter 262, 2014 General Session

53A-8a-602. Educator's eligibility for a wage increase.

An educator, as defined in Section 53A-6-103, may not advance on an adopted salary schedule if the educator's rating on the most recent evaluation is at the second lowest level of an evaluation instrument that differentiates among four levels of performance as described in Section 53A-8a-405, unless the educator:

- (1) is a provisional educator; or
- (2) is in the first year of an assignment, including a new subject, grade level, or school.

Enacted by Chapter 425, 2012 General Session

53A-8a-701. Definitions.

As used in this part:

- (1) "District administrator" means an individual who:
 - (a) serves in a position that requires an educator license with an administrative area of concentration, except as provided in Section 53A-3-301 or 53A-6-110; and
 - (b) supervises school administrators.
- (2) "School administrator" means an individual who:
 - (a) serves in a position that requires an educator license with an administrative area of concentration, except as provided in Section 53A-6-110; and
 - (b) supervises teachers.

Enacted by Chapter 425, 2012 General Session

53A-8a-702. Evaluation of school and district administrators.

The State Board of Education shall:

- (1) establish in rules a framework for the evaluation of school and district administrators that includes the following components:
 - (a) student achievement indicators emphasizing learning growth and proficiency;
 - (b) the results of an evaluation tool utilized by the local school board that includes input from employees, parents, and students;
 - (c) the effectiveness of evaluating employee performance in a school or district for which the school or district administrator has responsibility; and
 - (d) other factors as determined by a local school board in implementing state law and State Board of Education rules; and
- (2) require each school district to fully implement an evaluation system for school and district administrators in accordance with the framework established by the State Board of Education no later than the 2015-16 school year.

Amended by Chapter 262, 2014 General Session

53A-8a-703. Compensation of school and district administrators.

- (1) Beginning no later than the 2016-17 school year, a school or district administrator's salary shall be based on the school or district administrator's most

recent evaluation.

(2) A school district shall continue each year to award any salary increases to a school or district administrator based on an evaluation administered pursuant to Section 53A-8a-702 until at least 15% of a school or district administrator's salary is contingent upon the evaluation administered pursuant to Section 53A-8a-702.

Amended by Chapter 262, 2014 General Session

53A-8a-801. Definitions.

As used in this part:

(1) "Peer Assistance and Review Pilot Program" or "PAR Program" means the teacher evaluation and mentoring program created in Section 53A-8a-802.

(2) "Consulting teacher" means a teacher who is appointed as described in Section 53A-8a-803 and provides assistance and review to teachers assigned to a PAR Program.

(3) "Novice teacher" means a provisional teacher who has not achieved career employee status.

(4) "PAR Joint Panel" means the governing panel of a district's PAR Program, created according to Section 53A-8a-804.

(5) "Teacher" means an individual employed by a school district who is required to hold an educator license issued by the State Board of Education and who has an assignment to teach in a classroom.

(6) "Underperforming veteran teacher" means a teacher who has achieved career employee status as defined in Section 53A-8a-102 and whose work has been judged to fall below the district's standards.

Enacted by Chapter 273, 2012 General Session

53A-8a-802. PAR Program guidelines -- Report.

(1) The PAR Program is created to:

(a) conduct regular evaluations of novice teachers and underperforming veteran teachers;

(b) provide support and mentoring to novice teachers and underperforming veteran teachers; and

(c) make recommendations for continued employment or dismissal of novice teachers and underperforming veteran teachers.

(2) Subject to future budget constraints, the Legislature shall appropriate money for a five-year period to the State Board of Education for the PAR Program.

(3) The State Board of Education shall:

(a) solicit proposals from school districts for the use of grant money to develop and implement PAR Programs; and

(b) award grants to school districts on a competitive basis.

(4) In awarding a grant under Subsection (3)(b), the State Board of Education shall consider:

(a) the applicant's capacity to effectively achieve the purposes of the PAR Program as described in Subsection (1);

- (b) whether the district has a rigorous and standards-based teacher evaluation system already in place; and
- (c) other criteria as determined by the State Board of Education.
- (5) To receive a grant, a school district shall submit a proposal to the State Board of Education on how the district intends to develop and implement a PAR Program, within the specifications of Section 53A-8a-803.
- (6) A selected district may use grant money:
 - (a) to develop and design a PAR Program to fit the needs of the district, which may include hiring consultants;
 - (b) to fund additional pay or stipends, computers, travel reimbursement, and office space for consulting teachers;
 - (c) for program administration and clerical support staff;
 - (d) for stipends for PAR Joint Panel members;
 - (e) to pay substitute teachers for PAR Joint Panel members to attend meetings or for teachers enrolled in the PAR Program to visit and observe other classes; and
 - (f) for training costs.
- (7) After each year of the pilot program, the State Board of Education shall make a report to the Education Interim Committee evaluating the impact of the PAR Program on retaining high quality teachers and dismissing ineffective teachers in a timely manner.
- (8) The State Board of Education shall make rules specifying:
 - (a) procedures for applying for and awarding grants under this part;
 - (b) criteria for awarding grants; and
 - (c) reporting requirements for grantees.

Enacted by Chapter 273, 2012 General Session

53A-8a-803. Program components.

- (1) A district that receives a grant under Section 53A-8a-802 to design and implement a PAR Program, shall use the general guidelines as set forth in this section.
- (2) A district's PAR Program shall consist of the following two sections:
 - (a) an induction section for novice teachers; and
 - (b) a remediation section for underperforming veteran teachers.
- (3) The induction section of a district's PAR Program shall include the following components:
 - (a) a novice teacher is automatically enrolled into the induction section of the PAR Program and assigned a consulting teacher who serves as a mentor;
 - (b) the novice teacher receives help from a consulting teacher in setting up a classroom, securing needed supplies, preparing for classroom management, reflecting on lessons, and getting feedback and support;
 - (c) the consulting teacher assesses the novice teacher's work and reports to the district's PAR Joint Panel several times throughout the year, with a summative report and evaluation at the end of the year;
 - (d) the consulting teacher assists the district's PAR Joint Panel in deciding whether to hire the novice teacher for another year; and
 - (e) the principal retains the right and responsibility for evaluating all teachers for

career employment status.

(4) The remediation section of a district's PAR Program shall include the following components:

(a) a principal or supervisor recommends an underperforming veteran teacher to the remediation section of the program, or the underperforming veteran teacher may be automatically enrolled in the intervention section of the program in accordance with local school board policy;

(b) an underperforming veteran teacher is assigned a consulting teacher who acts as a mentor and initially investigates whether the teacher is, in fact, failing to meet the district standards;

(c) the consulting teacher mentors the underperforming veteran teacher for a period of time established in accordance with local school board policy; and

(d) the underperforming veteran teacher either meets district standards after close mentoring, or is dismissed or encouraged to resign because the underperforming veteran teacher rejects help or fails to improve sufficiently despite the consulting teacher's mentoring.

(5) Consulting teachers:

(a) are chosen through a competitive process by the district's PAR Joint Panel;

(b) (i) are released from regular teaching loads for three to five years; or

(ii) are released from regular teaching part-time and serve as consulting teachers part-time;

(c) earn regular salary plus an additional stipend for being consulting teachers;

(d) are assigned a caseload of teachers to mentor and evaluate, preferably in the same subject and grade level;

(e) report on teachers to the district's PAR Joint Panel; and

(f) mentor and evaluate teachers participating in the district's PAR Program through:

(i) scheduled and unscheduled visits;

(ii) developing a growth plan with a teacher based on the teacher's strengths and weaknesses;

(iii) observing lessons and providing feedback;

(iv) helping with lesson planning;

(v) providing resources and materials; and

(vi) arranging for a participating teacher to observe another colleague's class.

Enacted by Chapter 273, 2012 General Session

53A-8a-804. Creation -- Make-up -- Duties of a district PAR Joint Panel.

(1) A district that receives money to create a PAR Program under Section 53A-8a-802 shall create a PAR Joint Panel consisting of an equal number of teacher representatives and district administrators or their designees.

(2) A district PAR Joint Panel shall:

(a) meet regularly to design the district's PAR Program;

(b) review cases of teachers assigned to the district's PAR Program and decide whether the district should continue to employ teachers based on evidence collected by consulting teachers; and

- (c) select consulting teachers through a competitive process.

Enacted by Chapter 273, 2012 General Session

53A-11-101. Definitions.

For purposes of this part:

(1) (a) "Absence" or "absent" means, consistent with Subsection (1)(b), failure of a school-age minor assigned to a class or class period to attend the entire class or class period.

(b) A school-age minor may not be considered absent under this part more than one time during one day.

(2) "Habitual truant" means a school-age minor who:

(a) is at least 12 years old;

(b) is subject to the requirements of Section 53A-11-101.5; and

(c) (i) is truant at least 10 times during one school year; or

(ii) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section 53A-11-103.

(3) "Minor" means a person under the age of 18 years.

(4) "Parent" includes:

(a) a custodial parent of the minor;

(b) a legally appointed guardian of a minor; or

(c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (4)(a) or (b).

(5) "School-age minor" means a minor who:

(a) is at least six years old, but younger than 18 years old; and

(b) is not emancipated.

(6) "School year" means the period of time designated by a local school board or local charter board as the school year for the school where the school-age minor:

(a) is enrolled; or

(b) should be enrolled, if the school-age minor is not enrolled in school.

(7) "Truant" means absent without a valid excuse.

(8) "Truant minor" means a school-age minor who:

(a) is subject to the requirements of Section 53A-11-101.5 or 53A-11-101.7; and

(b) is truant.

(9) "Valid excuse" means:

(a) an illness;

(b) a family death;

(c) an approved school activity;

(d) an absence permitted by a school-age minor's:

(i) individualized education program, developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as amended; or

(ii) accommodation plan, developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended; or

(e) any other excuse established as valid by a local school board, local charter board, or school district.

Amended by Chapter 81, 2007 General Session

53A-11-101.3. Preapproval of extended absence.

In determining whether to preapprove an extended absence of a school-age minor as a valid excuse under Subsection 53A-11-101(9)(e), a local school board, local charter board, or school district shall approve the absence if the local school board, local charter board, or school district determines that the extended absence will not adversely impact the school-age minor's education.

Enacted by Chapter 81, 2007 General Session

53A-11-101.5. Compulsory education.

- (1) For purposes of this section:
 - (a) "Intentionally" is as defined in Section 76-2-103.
 - (b) "Recklessly" is as defined in Section 76-2-103.
 - (c) "Remainder of the school year" means the portion of the school year beginning on the day after the day on which the notice of compulsory education violation described in Subsection (3) is served and ending on the last day of the school year.
 - (d) "School-age child" means a school-age minor under the age of 14.
- (2) Except as provided in Section 53A-11-102 or 53A-11-102.5, the parent of a school-age minor shall enroll and send the school-age minor to a public or regularly established private school.
- (3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is absent without a valid excuse at least five times during the school year.
- (4) The notice of compulsory education violation, described in Subsection (3):
 - (a) shall direct the parent of the school-age child to:
 - (i) meet with school authorities to discuss the school-age child's school attendance problems; and
 - (ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age child;
 - (b) shall designate the school authorities with whom the parent is required to meet;
 - (c) shall state that it is a class B misdemeanor for the parent of the school-age child to intentionally or recklessly:
 - (i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or
 - (ii) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year;
 - (d) shall be served on the school-age child's parent by personal service or certified mail; and
 - (e) may not be issued unless the school-age child has been truant at least five times during the school year.

(5) It is a class B misdemeanor for a parent of a school-age minor to intentionally or recklessly fail to enroll the school-age minor in school, unless the school-age minor is exempt from enrollment under Section 53A-11-102 or 53A-11-102.5.

(6) It is a class B misdemeanor for a parent of a school-age child to, after being served with a notice of compulsory education violation in accordance with Subsections (3) and (4), intentionally or recklessly:

(a) fail to meet with the school authorities designated in the notice of compulsory education violation to discuss the school-age child's school attendance problems; or

(b) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year.

(7) A local school board, local charter board, or school district shall report violations of this section to the appropriate county or district attorney.

Amended by Chapter 203, 2012 General Session

53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school authorities -- Habitual truant citation.

(1) Except as provided in Section 53A-11-102 or 53A-11-102.5, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.

(2) A local school board, charter school governing board, or school district may impose administrative penalties on a school-age minor who is truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and

(b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.

(4) The notice of truancy described in Subsection (3):

(a) may not be issued until the school-age minor has been truant at least five times during the school year;

(b) may not be issued to a school-age minor who is less than 12 years old;

(c) may not be issued to a minor exempt from school attendance as provided in Section 53A-11-102 or 53A-11-102.5;

(d) shall direct the school-age minor and the parent of the school-age minor to:

(i) meet with school authorities to discuss the school-age minor's trancies; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and

(e) shall be mailed to, or served on, the school-age minor's parent.

(5) (a) Except as provided in Subsection (5)(b), a habitual truant citation may be issued to a habitual truant if:

(i) the local school board, charter school governing board, or school district has made reasonable efforts, under Section 53A-11-103, to resolve the school attendance problems of the habitual truant; and

(ii) the efforts to resolve the school attendance problems, described in

Subsection (5)(a)(i), have not been successful.

(b) A habitual truant citation may not be issued to a habitual truant if the habitual truant:

- (i) has at least a 3.5 cumulative grade point average; and
- (ii) is at least 16 years old.

(6) A habitual truant to whom a habitual truant citation is issued under

Subsection (5):

- (a) shall be referred to the juvenile court for violation of Subsection (1); and
- (b) is subject to the jurisdiction of the juvenile court.

(7) A notice of truancy or a habitual truant citation may only be issued by:

- (a) a school administrator, or a truancy specialist, who is authorized by a local school board or charter school governing board;
- (b) a designee of a school administrator described in Subsection (7)(a); or
- (c) a law enforcement officer acting as a school resource officer.

(8) Nothing in this part prohibits a local school board, charter school governing board, or school district from taking action to resolve a truancy problem with a school-age minor who has been truant less than five times, provided that the action does not conflict with the requirements of this part.

(9) Nothing in this part allows a local school board or charter school governing board to issue a citation pursuant to this section if the minor is exempt from school attendance as provided in Section 53A-11-102 or 53A-11-102.5.

Amended by Chapter 359, 2014 General Session

53A-11-102. Minors exempt from school attendance.

(1) (a) A local school board or charter school governing board may excuse a school-age minor from attendance for any of the following reasons:

(i) a school-age minor over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age minor has completed the eighth grade; or

(ii) on an annual basis, a school-age minor may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age minor has already completed the work required for graduation from high school, or has demonstrated mastery of required skills and competencies in accordance with Subsection 53A-15-102(1);

(B) the school-age minor is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age minor's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age minor over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age minor receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age minor from attendance as provided by this Subsection (1) shall issue a certificate that the minor is excused from attendance during the time specified on the certificate.

(2) (a) A local school board shall excuse a school-age minor from attendance, if the school-age minor's parent files a signed and notarized affidavit with the school-age minor's school district of residence, as defined in Section 53A-2-201, that:

(i) the school-age minor will attend a home school; and

(ii) the parent assumes sole responsibility for the education of the school-age minor, except to the extent the school-age minor is dual enrolled in a public school as provided in Section 53A-11-102.5.

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age minor attends a home school; and

(ii) the school district where the affidavit was filed remains the school-age minor's district of residence.

(c) A parent of a school-age minor who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent of a school-age minor who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age minor from attendance as provided by this Subsection (2) shall annually issue a certificate stating that the school-age minor is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age minor from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age minor's parent pursuant to Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age minor enrolls in a school within the school district;

(B) the school-age minor's parent or guardian notifies the school district that the school-age minor no longer attends a home school; or

(C) the school-age minor's parent or guardian notifies the school district that the school-age minor's school district of residence has changed.

(3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a) is exempt from the application of Subsections 53A-11-101.5(2), (5), and (6).

(4) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or guardian of a minor attending a home school.

Amended by Chapter 374, 2014 General Session

53A-11-102.5. Dual enrollment.

(1) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(2) A person having control of a minor who is enrolled in a regularly established private school or a home school may also enroll the minor in a public school for dual enrollment purposes.

(3) The minor may participate in any academic activity in the public school available to students in the minor's grade or age group, subject to compliance with the same rules and requirements that apply to a full-time student's participation in the activity.

(4) (a) A student enrolled in a dual enrollment program in a district school is considered a student of the district in which the district school of attendance is located for purposes of state funding to the extent of the student's participation in the district school programs.

(b) A student enrolled in a dual enrollment program in a charter school is considered a student of the charter school for purposes of state funding to the extent of the student's participation in the charter school programs.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules for purposes of dual enrollment to govern and regulate the transferability of credits toward graduation that are earned in a private or home school.

Amended by Chapter 210, 2010 General Session

53A-11-102.6. Private school and home school students' participation in extracurricular activities in a public school.

(1) As used in this section:

(a) "Academic eligibility requirements" means the academic eligibility requirements that a home school student is required to meet to participate in an extracurricular activity in a public school.

(b) "Principal" means the principal of the school in which a home school student participates or intends to participate in an extracurricular activity.

(2) (a) A minor who is enrolled in a private school or a home school shall be

eligible to participate in an extracurricular activity at a public school as provided in this section.

(b) A private school student may only participate in an extracurricular activity at a public school that is not offered by the student's private school.

(c) Except as provided in Subsection (2)(d), a private school student or a home school student may only participate in an extracurricular activity at:

(i) the school within whose attendance boundaries the student's custodial parent or legal guardian resides; or

(ii) the school from which the student withdrew for the purpose of attending a private or home school.

(d) A school other than a school described in Subsection (2)(c)(i) or (ii) may allow a private school student or a home school student to participate in an extracurricular activity other than:

(i) an interscholastic competition of athletic teams sponsored and supported by a public school; or

(ii) an interscholastic contest or competition for music, drama, or forensic groups or teams sponsored and supported by a public school.

(3) (a) Except as provided in Subsections (4) through (13), a private school or home school student shall be eligible to participate in an extracurricular activity at a public school consistent with eligibility standards:

(i) applied to a fully enrolled public school student;

(ii) of the public school where the private school or home school student participates in an extracurricular activity; and

(iii) for the extracurricular activity in which the private school or home school student participates.

(b) A school district or public school may not impose additional requirements on a private school or home school student to participate in an extracurricular activity that are not imposed on a fully enrolled public school student.

(c) (i) A private school or home school student who participates in an extracurricular activity at a public school shall pay the same fees as required of a fully enrolled public school student to participate in an extracurricular activity.

(ii) If a local school board or charter school governing board imposes a mandatory student activity fee for a student enrolled in a public school, the fee may be imposed on a private school or home school student who participates in an extracurricular activity at the public school if the same benefits of paying the mandatory student activity fee that are available to a fully enrolled public school student are available to a private school or home school student who participates in an extracurricular activity at the public school.

(4) Eligibility requirements based on school attendance are not applicable to a home school student.

(5) A home school student meets academic eligibility requirements to participate in an extracurricular activity if:

(a) the student is mastering the material in each course or subject being taught; and

(b) the student is maintaining satisfactory progress towards achievement or promotion.

(6) (a) To establish a home school student's academic eligibility, a parent, teacher, or organization providing instruction to the student shall submit an affidavit to the principal indicating the student meets academic eligibility requirements.

(b) Upon submission of an affidavit pursuant to Subsection (6)(a), a home school student shall:

(i) be considered to meet academic eligibility requirements; and

(ii) retain academic eligibility for all extracurricular activities during the activity season for which the affidavit is submitted, until:

(A) a panel established under Subsection (10) determines the home school student does not meet academic eligibility requirements; or

(B) the person who submitted the affidavit under Subsection (6)(a) provides written notice to the school principal that the student no longer meets academic eligibility requirements.

(7) (a) A home school student who loses academic eligibility pursuant to Subsection (6)(b)(ii)(B) may not participate in an extracurricular activity until the person who submitted the affidavit under Subsection (6)(a) provides written notice to the school principal that the home school student has reestablished academic eligibility.

(b) If a home school student reestablishes academic eligibility pursuant to Subsection (7)(a), the home school student may participate in extracurricular activities for the remainder of the activity season for which an affidavit was submitted under Subsection (6)(a).

(8) A person who has probable cause to believe a home school student does not meet academic eligibility requirements may submit an affidavit to the principal:

(a) asserting the home school student does not meet academic eligibility requirements; and

(b) providing information indicating that the home school student does not meet the academic eligibility requirements.

(9) A principal shall review the affidavit submitted under Subsection (8), and if the principal determines it contains information which constitutes probable cause to believe a home school student may not meet academic eligibility requirements, the principal shall request a panel established pursuant to Subsection (10) to verify the student's compliance with academic eligibility requirements.

(10) (a) A school district superintendent shall:

(i) appoint a panel of three individuals to verify a home school student's compliance with academic eligibility requirements when requested by a principal pursuant to Subsection (9); and

(ii) select the panel members from nominees submitted by national, state, or regional organizations whose members are home school students and parents.

(b) Of the members appointed to a panel under Subsection (10)(a):

(i) one member shall have experience teaching in a public school as a licensed teacher and in home schooling high school-age students;

(ii) one member shall have experience teaching in a higher education institution and in home schooling; and

(iii) one member shall have experience in home schooling high school-age students.

(11) A panel appointed under Subsection (10):

- (a) shall review the affidavit submitted under Subsection (8);
- (b) may confer with the person who submitted the affidavit under Subsection (8);
- (c) shall request the home school student to submit test scores or a portfolio of work documenting the student's academic achievement to the panel;
- (d) shall review the test scores or portfolio of work; and
- (e) shall determine whether the home school student meets academic eligibility requirements.

(12) A home school student who meets academic eligibility requirements pursuant to Subsection (11), retains academic eligibility for all extracurricular activities during the activity season for which an affidavit is submitted pursuant to Subsection (6).

(13) (a) A panel's determination that a home school student does not comply with academic eligibility requirements is effective for an activity season and all extracurricular activities that have academic eligibility requirements.

(b) A home school student who is not in compliance with academic eligibility requirements as determined by a panel appointed under Subsection (11) may seek to establish academic eligibility under this section for the next activity season.

(14) (a) A public school student who has been declared to be academically ineligible to participate in an extracurricular activity and who subsequently enrolls in a home school shall lose eligibility for participation in the extracurricular activity until the student:

- (i) demonstrates academic eligibility by providing test results or a portfolio of the student's work to the school principal, provided that a student may not reestablish academic eligibility under this Subsection (14)(a) during the same activity season in which the student was declared to be academically ineligible;

- (ii) returns to public school and reestablishes academic eligibility; or

- (iii) enrolls in a private school and establishes academic eligibility.

(b) A public school student who has been declared to be behaviorally ineligible to participate in an extracurricular activity and who subsequently enrolls in a home school shall lose eligibility for participation in the extracurricular activity until the student meets eligibility standards as provided in Subsection (3).

(15) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a private school student and a home school student shall be eligible to try out for and participate in the activity as provided in this section.

(16) (a) If a student exits a public school to enroll in a private or home school mid-semester or during an activity season, and the student desires to participate in an extracurricular activity at the public school, the public school shall issue an interim academic assessment based on the student's work in each class.

(b) A student's academic eligibility to participate in an extracurricular activity under the circumstances described in Subsection (16)(a) shall be based on the student meeting public school academic eligibility standards at the time of exiting public school.

(c) A student may appeal an academic eligibility determination made under Subsection (16)(b) in accordance with procedures for appealing a public school student's academic eligibility.

Amended by Chapter 340, 2011 General Session

53A-11-102.7. Placement of a home school student who transfers to a public school.

(1) For the purposes of this section, "home school student" means a student who attends a home school pursuant to Section 53A-11-102.

(2) When a home school student transfers from a home school to a public school, the public school shall place the student in the grade levels, classes, or courses that the student's parent or guardian and in consultation with the school administrator determine are appropriate based on the parent's or guardian's assessment of the student's academic performance.

(3) (a) Within 30 days of a home school student's placement in a public school grade level, class, or course, either the student's teacher or the student's parent or guardian may request a conference to consider changing the student's placement.

(b) If the student's teacher and the student's parent or guardian agree on a placement change, the public school shall place the student in the agreed upon grade level, class, or course.

(c) If the student's teacher and the student's parent or guardian do not agree on a placement change, the public school shall evaluate the student's subject matter mastery in accordance with Subsection (3)(d).

(d) The student's parent or guardian has the option of:

(i) allowing the public school to administer, to the student, assessments that are:

(A) regularly administered to public school students; and

(B) used to measure public school students' subject matter mastery and determine placement; or

(ii) having a private entity or individual administer assessments of subject matter mastery to the student at the parent's or guardian's expense.

(e) After an evaluation of a student's subject matter mastery, a public school may change a student's placement in a grade level, class, or course.

(4) This section does not apply to a student who is dual enrolled in a public school and a home school pursuant to Section 53A-11-102.5.

Enacted by Chapter 374, 2014 General Session

53A-11-103. Duties of a school board, local charter board, or school district in resolving attendance problems -- Parental involvement -- Liability not imposed.

(1) (a) Except as provided in Subsection (1)(b), a local school board, local charter board, or school district shall make efforts to resolve the school attendance problems of each school-age minor who is, or should be, enrolled in the school district.

(b) A minor exempt from school attendance under Section 53A-11-102 or 53A-11-102.5 is not considered to be a minor who is or should be enrolled in a school district or charter school under Subsection (1)(a).

(2) The efforts described in Subsection (1) shall include, as reasonably feasible:

(a) counseling of the minor by school authorities;

(b) issuing a notice of truancy to a school-age minor who is at least 12 years old, in accordance with Section 53A-11-101.7;

(c) issuing a habitual truant citation, in accordance with Section 53A-11-101.7;

- (d) issuing a notice of compulsory education violation to a parent of a school-age child, in accordance with Section 53A-11-101.5;
- (e) making any necessary adjustment to the curriculum and schedule to meet special needs of the minor;
- (f) considering alternatives proposed by a parent;
- (g) monitoring school attendance of the minor;
- (h) voluntary participation in truancy mediation, if available; and
- (i) providing a school-age minor's parent, upon request, with a list of resources available to assist the parent in resolving the school-age minor's attendance problems.

(3) In addition to the efforts described in Subsection (2), the local school board, local charter board, or school district may enlist the assistance of community and law enforcement agencies as appropriate and reasonably feasible.

(4) This section shall not impose any civil liability on boards of education, local school boards, local charter boards, school districts, or their employees.

(5) Proceedings initiated under this part do not obligate or preclude action by the Division of Child and Family Services under Section 78A-6-319.

Amended by Chapter 203, 2012 General Session

53A-11-104. Truancy specialists.

A local school board or local charter board may appoint and fix the compensation of a truancy specialist to assist in enforcing laws related to school attendance and to perform other duties prescribed by law or the board.

Amended by Chapter 81, 2007 General Session

53A-11-105. Taking custody of a person believed to be a truant minor -- Disposition -- Receiving centers -- Reports -- Immunity from liability.

(1) A peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a school-age minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

- (a) the principal of the minor's school;
- (b) a person who has been designated by the local school board or local charter board to receive and return the minor to school; or
- (c) a receiving center established under Subsection (5).

(3) If the minor refuses to return to school or go to the receiving center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

(4) If the parents cannot be reached or are unable or unwilling to accept custody, the minor shall be referred to the Division of Child and Family Services.

(5) (a) A local school board or local charter board, singly or jointly with another school board, may establish or designate receiving centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors. Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the

center, pick up the minor, and return the minor to the school in which the minor is enrolled.

(b) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services. A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6) Action taken under this section shall be reported to the appropriate school district. The district shall promptly notify the minor's parents of the action taken.

(7) The Utah Governmental Immunity Act applies to all actions taken under this section.

(8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with the provisions of Title 62A, Chapter 4a, Parts 2, Child Welfare Services, and 2A, Minors in Custody on Grounds Other Than Abuse or Neglect, and of Title 78A, Chapter 6, Parts 3, Abuse, Neglect, and Dependency Proceedings, and 4, Minors in Custody on Grounds Other Than Abuse or Neglect.

Amended by Chapter 3, 2008 General Session

53A-11-106. Truancy support centers.

(1) A school district may establish one or more truancy support centers for:

- (a) truant minors taken into custody under Section 53A-11-105; or
- (b) students suspended or expelled from school.

(2) A truancy support center shall provide services to the truant minor and the truant minor's family, including:

- (a) assessments of the truant minor's needs and abilities;
- (b) support for the parents and truant minor through counseling and community programs; and
- (c) tutoring for the truant minor during the time spent at the center.

(3) For the suspended or expelled student, the truancy support center shall provide an educational setting, staffed with certified teachers and aides, to provide the student with ongoing educational programming appropriate to the student's grade level.

(4) In a district with a truancy support center, all students suspended or expelled from school shall be referred to the center. A parent or guardian shall appear with the student at the center within 48 hours of the suspension or expulsion, not including weekends or holidays. The student shall register and attend classes at the truancy support center for the duration of the suspension or expulsion unless the parent or guardian demonstrates that alternative arrangements have been made for the education or supervision of the student during the time of suspension or expulsion.

(5) The truancy support center may provide counseling and other support programming for students suspended or expelled from school and their parents or guardian.

Amended by Chapter 81, 2007 General Session

53A-11-201. Rules for examinations prescribed by Department of Health -- Notification of impairment.

(1) (a) Each local school board shall implement rules as prescribed by the Department of Health for vision, dental, abnormal spinal curvature, and hearing examinations of students attending the district's schools.

(b) Under guidelines of the Department of Health, qualified health professionals shall provide instructions, equipment, and materials for conducting the examinations.

(c) The rules shall include exemption provisions for students whose parents or guardians contend the examinations violate their personal beliefs.

(2) The school shall notify, in writing, a student's parent or guardian of any impairment disclosed by the examinations.

Amended by Chapter 4, 1996 General Session

53A-11-202. Personnel to perform health examination.

A local school board may use teachers or licensed registered nurses to conduct examinations required under this chapter and licensed physicians as needed for medical consultation related to those examinations.

Enacted by Chapter 2, 1988 General Session

53A-11-203. Vision screening.

(1) As used in this section, "division" means the Division of Services for the Blind and Visually Impaired, State Office of Education.

(2) A child under eight years of age entering school for the first time in this state must present the following to the school:

(a) a certificate signed by a licensed physician, optometrist, or other licensed health professional approved by the division, stating that the child has received vision screening to determine the presence of amblyopia or other visual defects; or

(b) a written statement signed by at least one parent or legal guardian of the child that the screening violates the personal beliefs of the parent or legal guardian.

(3) (a) The division:

(i) shall provide vision screening report forms to a person approved by the division to conduct a free vision screening for children aged 3-1/2 to eight; and

(ii) may work with health care professionals, teachers, and vision screeners to develop protocols that may be used by a parent, teacher, or vision screener to help identify a child who may have conditions that are not detected in a vision screening, such as problems with eye focusing, eye tracking, visual perceptual skills, visual motor integration, and convergence insufficiency; and

(iii) shall, once protocols are established under Subsection (3)(a)(ii), develop language regarding the vision problems identified in Subsection (3)(a)(ii) to be included in the notice required by Subsection (3)(b).

(b) The report forms shall include the following information for a parent or guardian: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(4) A school district may conduct free vision screening clinics for children aged

3-1/2 to eight.

(5) (a) The division shall maintain a central register of children, aged 3-1/2 to eight, who fail vision screening and who are referred for follow-up treatment.

(b) The register described in Subsection (5)(a) shall include the name of the child, age or birthdate, address, cause for referral, and follow-up results.

(c) A school district shall report referral follow-up results for children aged 3-1/2 to eight to the division.

(6) (a) The division shall coordinate and supervise the training of a person who serves as a vision screener for a free vision screening clinic for children aged 3-1/2 to eight.

(b) A volunteer vision screener providing services under Subsection (6)(a) is not liable for any civil damages as a result of acts or omissions related to the vision screening unless the acts or omissions were willful or grossly negligent.

(7) (a) Except as provided in Subsection (7)(b), a licensed health professional providing vision care to private patients may not participate as a screener in a free vision screening program provided by a school district.

(b) A school district may:

(i) allow a licensed health professional who provides vision care to private patients to participate as a screener in a free vision screening program for a child nine years of age or older;

(ii) establish guidelines to administer a free vision screening program described in Subsection (7)(b)(i); and

(iii) establish penalties for a violation of the requirements of Subsection (7)(c).

(c) A licensed health professional or other person who participates as a screener in a free vision screening program described in Subsection (7)(b):

(i) may not market, advertise, or promote the licensed health professional's business in connection with providing the free screening at the school; and

(ii) shall provide the child's results of the free vision screening on a form produced by the school or school district, which:

(A) may not include contact information other than the name of the licensed health professional; and

(B) shall include a statement: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(d) A school district may provide information to a parent or guardian of the availability of follow up vision services for a student.

(8) The Department of Health shall:

(a) by rule, set standards and procedures for vision screening required by this chapter, which shall include a process for notifying the parent or guardian of a child who fails a vision screening or is identified as needing follow-up care; and

(b) provide the division with copies of rules, standards, instructions, and test charts necessary for conducting vision screening.

(9) The division shall supervise screening, referral, and follow-up required by this chapter.

Amended by Chapter 132, 2011 General Session

53A-11-204. Nursing services in the public schools -- Collaborative efforts.

(1) (a) Students in the state's public schools may be better protected against risks to health and safety if schools were to have registered nurses readily available to assist in providing educational and nursing services in the public schools.

(b) Those services would be further enhanced if they could be offered with the active support and participation of local public health departments and private medical providers, most particularly in those areas of the state without currently functioning collaborative programs.

(c) (i) School districts, local health departments, private medical providers, and parents of students are therefore encouraged to work together in determining needs and risks to student health in the state's public schools and in developing and implementing plans to meet those needs and minimize risks to students.

(ii) School community councils or school directors of affected schools shall review the plans prior to their implementation.

(2) School districts are encouraged to provide nursing services equivalent to the services of one registered nurse for every 5,000 students or, in districts with fewer than 5,000 students, the level of services recommended by the Department of Health.

Amended by Chapter 301, 2002 General Session

53A-11-205. Notification to the parent of an injured or sick child.

(1) A public school shall notify the custodial parent and, if requested in writing by a noncustodial parent, make reasonable efforts to notify the noncustodial parent of a student who is injured or becomes ill at the school during the regular school day if:

(a) the injury or illness requires treatment at a hospital, doctor's office, or other medical facility not located on the school premises; and

(b) the school has received a current telephone number for the party it is required to notify or make reasonable efforts to notify.

(2) (a) Subsection (1) does not apply to a noncustodial parent forbidden to have contact with the student under a court order or similar procedure.

(b) The custodial parent is responsible for providing the school with the noncustodial parent's status under Subsection (2)(a) through a procedure adopted by the local school board.

Enacted by Chapter 3, 2001 Special Session 1

53A-11-301. Certificate of immunization required.

(1) Unless exempted for personal, medical, or religious objections as provided in Section 53A-11-302, a student may not attend a public, private, or parochial kindergarten, elementary, or secondary school through grade 12, nursery school, licensed day care center, child care facility, family care home, or headstart program in this state unless there is presented to the appropriate official of the school a certificate of immunization from a licensed physician or authorized representative of the state or local health department stating that the student has received immunization against communicable diseases as required by rules adopted under Section 53A-11-303.

(2) School districts may not receive weighted pupil unit money for a student

unless the student has obtained a certificate of immunization under this section or qualifies for conditional enrollment or an exemption from immunization under Section 53A-11-302.

Amended by Chapter 53, 1992 General Session

53A-11-302. Immunizations required -- Exceptions -- Grounds for exemption from required immunizations.

(1) A student may not enter school without a certificate of immunization, except as provided in this section.

(2) Except as provided in Section 53A-1-1001, a student who at the time of school enrollment has not been completely immunized against each specified disease may attend school under a conditional enrollment if the student has received one dose of each specified vaccine prior to enrollment.

(3) A student is exempt from receiving the required immunizations if there is presented to the appropriate official of the school one or more of the following:

(a) a certificate from a licensed physician stating that due to the physical condition of the student one or more specified immunizations would endanger the student's life or health;

(b) A completed form obtained at the local health department where the student resides, providing:

(i) the information required under Subsection 53A-11-302.5(1); and

(ii) a statement that the person has a personal belief opposed to immunizations, which is signed by one of the individuals listed in Subsection 53A-11-302(3)(c) and witnessed by the local health officer or his designee; or

(c) a statement that the person is a bona fide member of a specified, recognized religious organization whose teachings are contrary to immunizations, signed by one of the following persons:

(i) one of the student's parents;

(ii) the student's guardian;

(iii) a legal age brother or sister of a student who has no parent or guardian; or

(iv) the student, if of legal age.

Amended by Chapter 395, 2010 General Session

53A-11-302.5. Personal belief immunization exemption.

(1) The Department of Health shall provide to all local health departments a form to be used by persons claiming an exemption from immunization requirements based on a personal belief opposed to immunization. The form shall include a statement printed on the form and drafted by the Department of Health stating the department's position regarding the benefits of immunization. The form shall require, at a minimum:

(a) a statement claiming exemption from immunizations required under Section 53A-11-302, signed by a person listed under Subsection 53A-11-302(3)(c);

(b) the name and address of the person who signs the form;

(c) the name of the student exempted from immunizations; and

- (d) the school at which the student is enrolling.
- (2) (a) The Department of Health shall provide these forms to the local health departments.
- (b) Local health departments shall make the forms available to the public upon request.
- (3) (a) A student enrolling in a school and who claims exemption from immunizations based on a personal belief shall complete the form described in Subsection (1) and provide it to the school officials at the school in which the student is enrolling.
- (b) Students who prior to July 1, 1992, claimed an exemption from immunizations based on personal beliefs shall prior to December 1, 1992, complete the form described in Subsection (1) and provide it to the appropriate official of the school the student attends.

Enacted by Chapter 129, 1992 General Session

53A-11-303. Regulations of department.

- (1) The Department of Health shall adopt rules to establish which immunizations are required and the manner and frequency of their administration.
- (2) The rules adopted shall conform to recognized standard medical practices.
- (3) The rules shall require the reporting of statistical information and names of noncompliers by the schools.

Enacted by Chapter 2, 1988 General Session

53A-11-304. Certificate part of student's record -- Forms for certificates -- Transfer of immunization record to official certificate.

- (1) Each school shall retain official certificates of immunization for every enrolled student. The certificate becomes a part of the individual student's permanent school record and follows the student through his or her public or private school career.
- (2) The Department of Health shall provide official certificate of immunization forms to public and private schools, physicians, and local health departments. The forms referred to in this subsection shall include a clear statement of the student's rights under Section 53A-11-302.
- (3) Any immunization record provided by a licensed physician, registered nurse, or public health official may be accepted by a school official as a certificate of immunization if the type of immunization given and the dates given are specified and the information is transferred to an official certificate of immunization and verified by the school district in which the public or private school is located.

Enacted by Chapter 2, 1988 General Session

53A-11-305. Immunization by local health departments -- Fees.

- (1) If a student has not been immunized against a disease specified by the Department of Health, he may be immunized by the local health department upon the request of his parent or guardian, or upon the student's request if he is of legal age.

The local health department may charge a fee to cover the cost of administration of the vaccine.

(2) The vaccine necessary for immunizations required under Sections 53A-11-301 and 53A-11-303 shall be furnished to local departments of health by the Department of Health. The Department of Health may recover all or part of the cost of vaccines purchased with state funds by charging local health departments a fee for those vaccines. Local health departments may pass the cost of the vaccine on to the student, his parent or guardian, or other responsible party. However, a child may not be refused immunizations by the local health department in his area of residence because of inability to pay.

(3) The Department of Health shall establish the fee for administration of vaccines, as provided by Subsection (1), and shall establish fees for vaccines.

Amended by Chapter 202, 1988 General Session

53A-11-306. Conditional enrollment -- Suspension for noncompliance -- Procedure.

(1) Conditional enrollment time periods may be modified by the department by legally adopted rules.

(2) The requirements for conditional enrollment shall apply to each student unless that student is exempted under Section 53A-11-302.

(3) After five days written notice of a pending suspension and of the student's rights under Section 53A-11-302 shall be mailed to the last-known address of a parent, guardian, or legal age brother or sister of a student who is without parent or guardian, the governing authority of any school shall prohibit further attendance by a student under a conditional enrollment who has failed to obtain the immunization required within time period set forth in Section 53A-11-302 or otherwise established by rule.

(4) Parents or guardians of children who are prohibited from attending school for failure to comply with the provisions of this part shall be referred to the juvenile court.

Enacted by Chapter 2, 1988 General Session

53A-11-401. Definitions.

For purposes of Sections 53A-11-402 through 53A-11-404:

(1) "Educator" means a person employed by a public school, but excludes those employed by institutions of higher education.

(2) "Prohibited act" means an act prohibited by Section 53A-3-501, relating to alcohol; Section 58-37-8, relating to controlled substances; or Section 58-37a-5, relating to drug paraphernalia.

Amended by Chapter 22, 1989 General Session

53A-11-402. Mandatory reporting of prohibited acts.

If an educator has reasonable cause to believe that a student at the public school where the educator is employed has committed a prohibited act, he shall immediately report that to the school's designated educator.

Enacted by Chapter 2, 1988 General Session

53A-11-403. Reporting procedure.

(1) The principal of a public school affected by this chapter shall appoint one educator as the "designated educator" to make all reports required under Sections 53A-11-401 through 53A-11-404.

(2) The designated educator, upon receiving a report of a prohibited act from an educator under Section 53A-11-402, shall immediately report the violation to the student's parent or legal guardian, and may report the violation to an appropriate law enforcement agency or official.

(3) The designated educator may not disclose to the student or to the student's parent or legal guardian the identity of the educator who made the initial report.

Enacted by Chapter 2, 1988 General Session

53A-11-404. Immunity from civil or criminal liability.

An educator who in good faith makes a report under Sections 53A-11-402 and 53A-11-403 is immune from any liability, civil or criminal, that might otherwise result from that action.

Enacted by Chapter 2, 1988 General Session

53A-11-501. Definitions.

As used in this chapter:

(1) "Division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(2) "Missing child" has the same meaning as provided in Section 26-2-27.

(3) "State registrar" means the State Registrar of Vital Statistics within the Department of Health.

Amended by Chapter 263, 1998 General Session

53A-11-502. Identifying records -- Reporting requirements.

(1) Upon notification by the division of a missing child in accordance with Section 53-10-203, a school in which that child is currently or was previously enrolled shall flag the record of that child in a manner that whenever a copy of or information regarding the record is requested, the school is alerted to the fact that the record is that of a missing child.

(2) The school shall immediately report any request concerning flagged records or knowledge as to the whereabouts of any missing child to the division.

(3) Upon notification by the division that a missing child has been recovered, the school shall remove the flag from that child's record.

Amended by Chapter 263, 1998 General Session

53A-11-503. Requirement of birth certificate for enrollment of students -- Procedures.

(1) Upon enrollment of a student for the first time in a particular school, that school shall notify in writing the person enrolling the student that within 30 days he must provide either a certified copy of the student's birth certificate, or other reliable proof of the student's identity and age, together with an affidavit explaining the inability to produce a copy of the birth certificate.

(2) (a) Upon the failure of a person enrolling a student to comply with Subsection (1), the school shall notify that person in writing that unless he complies within 10 days the case shall be referred to the local law enforcement authority for investigation.

(b) If compliance is not obtained within that 10 day period, the school shall refer the case to the division.

(3) The school shall immediately report to the division any affidavit received pursuant to this subsection which appears inaccurate or suspicious.

Amended by Chapter 234, 1993 General Session

53A-11-504. Requirement of school record for transfer of student -- Procedures.

(1) Except as provided in Section 53A-1-1001, a school shall request a certified copy of a transfer student's record, directly from the transfer student's previous school, within 14 days after enrolling the transfer student.

(2) (a) Except as provided in Subsection (2)(b) and Section 53A-1-1001, a school requested to forward a certified copy of a transferring student's record to the new school shall comply within 30 school days of the request.

(b) If the record has been flagged pursuant to Section 53A-11-502, a school may not forward the record to the new school and the requested school shall notify the division of the request.

Amended by Chapter 395, 2010 General Session

53A-11-601. Administration of medication to students -- Prerequisites -- Immunity from liability.

(1) A public or private school that holds any classes in grades kindergarten through 12 may provide for the administration of medication to any student during periods when the student is under the control of the school, subject to the following conditions:

(a) the local school board, charter school governing board, or the private equivalent, after consultation with the Department of Health and school nurses shall adopt policies that provide for:

- (i) the designation of volunteer employees who may administer medication;
- (ii) proper identification and safekeeping of medication;
- (iii) the training of designated volunteer employees by the school nurse;
- (iv) maintenance of records of administration; and
- (v) notification to the school nurse of medication that will be administered to

students; and

(b) medication may only be administered to a student if:

(i) the student's parent or legal guardian has provided a current written and signed request that medication be administered during regular school hours to the student; and

(ii) the student's licensed health care provider has prescribed the medication and provides documentation as to the method, amount, and time schedule for administration, and a statement that administration of medication by school employees during periods when the student is under the control of the school is medically necessary.

(2) Authorization for administration of medication by school personnel may be withdrawn by the school at any time following actual notice to the student's parent or guardian.

(3) School personnel who provide assistance under Subsection (1) in substantial compliance with the licensed health care provider's written prescription and the employers of these school personnel are not liable, civilly or criminally, for:

(a) any adverse reaction suffered by the student as a result of taking the medication; and

(b) discontinuing the administration of the medication under Subsection (2).

Amended by Chapter 173, 2008 General Session

53A-11-602. Self-administration of asthma medication.

(1) As used in this section, "asthma medication" means prescription or nonprescription, inhaled asthma medication.

(2) A public school shall permit a student to possess and self-administer asthma medication if:

(a) the student's parent or guardian signs a statement:

(i) authorizing the student to self-administer asthma medication; and

(ii) acknowledging that the student is responsible for, and capable of, self-administering the asthma medication; and

(b) the student's health care provider provides a written statement that states:

(i) it is medically appropriate for the student to self-administer asthma medication and be in possession of asthma medication at all times; and

(ii) the name of the asthma medication prescribed or authorized for the student's use.

(3) The Utah Department of Health, in cooperation with the state superintendent of public instruction, shall design forms to be used by public schools for the parental and health care provider statements described in Subsection (2).

(4) Section 53A-11-904 does not apply to the possession and self-administration of asthma medication in accordance with this section.

Enacted by Chapter 4, 2004 General Session

53A-11-603. Administration of glucagon -- Training of volunteer school personnel -- Authority to use glucagon -- Immunity from liability.

(1) As used in this section, "glucagon authorization" means a signed statement from a parent or guardian of a student with diabetes:

- (a) certifying that glucagon has been prescribed for the student;
- (b) requesting that the student's public school identify and train school personnel who volunteer to be trained in the administration of glucagon in accordance with this section; and
- (c) authorizing the administration of glucagon in an emergency to the student in accordance with this section.

(2) (a) A public school shall, within a reasonable time after receiving a glucagon authorization, train two or more school personnel who volunteer to be trained in the administration of glucagon, with training provided by the school nurse or another qualified, licensed medical professional.

(b) A public school shall allow all willing school personnel to receive training in the administration of glucagon, and the school shall assist and may not obstruct the identification or training of volunteers under this Subsection (2).

(c) The Utah Department of Health, in cooperation with the state superintendent of public instruction, shall design a glucagon authorization form to be used by public schools in accordance with this section.

(3) (a) Training in the administration of glucagon shall include:

- (i) techniques for recognizing the symptoms that warrant the administration of glucagon;
- (ii) standards and procedures for the storage and use of glucagon;
- (iii) other emergency procedures, including calling the emergency 911 number and contacting, if possible, the student's parent or guardian; and
- (iv) written materials covering the information required under this Subsection (3).

(b) A school shall retain for reference the written materials prepared in accordance with Subsection (3)(a)(iv).

(4) A public school shall permit a student or school personnel to possess or store prescribed glucagon so that it will be available for administration in an emergency in accordance with this section.

(5) (a) A person who has received training in accordance with this section may administer glucagon at a school or school activity to a student with a glucagon authorization if:

- (i) the student is exhibiting the symptoms that warrant the administration of glucagon; and
- (ii) a licensed health care professional is not immediately available.

(b) A person who administers glucagon in accordance with Subsection (5)(a) shall direct a responsible person to call 911 and take other appropriate actions in accordance with the training materials retained under Subsection (3)(b).

(6) School personnel who provide or receive training under this section and act in good faith are not liable in any civil or criminal action for any act taken or not taken under the authority of this section with respect to the administration of glucagon.

(7) Section 53A-11-601 does not apply to the administration of glucagon in accordance with this section.

(8) Section 53A-11-904 does not apply to the possession and administration of glucagon in accordance with this section.

(9) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health professional under Title 58, Occupations and Professions, including a nurse, physician, or pharmacist who, in good faith, trains nonlicensed volunteers to administer glucagon in accordance with this section.

Enacted by Chapter 215, 2006 General Session

53A-11-604. Diabetes medication -- Possession -- Self-administration.

(1) As used in this section, "diabetes medication" means prescription or nonprescription medication used to treat diabetes, including related medical devices, supplies, and equipment used to treat diabetes.

(2) A public school shall permit a student to possess or possess and self-administer diabetes medication if:

(a) the student's parent or guardian signs a statement:

(i) authorizing the student to possess or possess and self-administer diabetes medication; and

(ii) acknowledging that the student is responsible for, and capable of, possessing or possessing and self-administering the diabetes medication; and

(b) the student's health care provider provides a written statement that states:

(i) it is medically appropriate for the student to possess or possess and self-administer diabetes medication and the student should be in possession of diabetes medication at all times; and

(ii) the name of the diabetes medication prescribed or authorized for the student's use.

(3) The Utah Department of Health, in cooperation with the state superintendent of public instruction, shall design forms to be used by public schools for the parental and health care provider statements described in Subsection (2).

(4) Section 53A-11-904 does not apply to the possession and self-administration of diabetes medication in accordance with this section.

Enacted by Chapter 215, 2006 General Session

53A-11-605. Definitions -- School personnel -- Medical recommendations -- Exceptions -- Penalties.

(1) As used in this section:

(a) "Health care professional" means a physician, physician assistant, nurse, dentist, or mental health therapist.

(b) "School personnel" means a school district or charter school employee, including a licensed, part-time, contract, or nonlicensed employee.

(2) School personnel may:

(a) provide information and observations to a student's parent or guardian about that student, including observations and concerns in the following areas:

(i) progress;

(ii) health and wellness;

(iii) social interactions;

- (iv) behavior; or
 - (v) topics consistent with Subsection 53A-13-302(6);
 - (b) communicate information and observations between school personnel regarding a child;
 - (c) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system;
 - (d) consult or use appropriate health care professionals in the event of an emergency while the student is at school, consistent with the student emergency information provided at student enrollment;
 - (e) exercise their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of Section 53A-11-904; and
 - (f) complete a behavioral health evaluation form if requested by a student's parent or guardian to provide information to a licensed physician.
- (3) School personnel shall:
- (a) report suspected child abuse consistent with Section 62A-4a-403;
 - (b) comply with applicable state and local health department laws, rules, and policies; and
 - (c) conduct evaluations and assessments consistent with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.
- (4) Except as provided in Subsection (2), Subsection (6), and Section 53A-11a-203, school personnel may not:
- (a) recommend to a parent or guardian that a child take or continue to take a psychotropic medication;
 - (b) require that a student take or continue to take a psychotropic medication as a condition for attending school;
 - (c) recommend that a parent or guardian seek or use a type of psychiatric or psychological treatment for a child;
 - (d) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments; or
 - (e) make a child abuse or neglect report to authorities, including the Division of Child and Family Services, solely or primarily on the basis that a parent or guardian refuses to consent to:
 - (i) a psychiatric, psychological, or behavioral treatment for a child, including the administration of a psychotropic medication to a child; or
 - (ii) a psychiatric or behavioral health evaluation of a child.
- (5) Notwithstanding Subsection (4)(e), school personnel may make a report that would otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of others.
- (6) Notwithstanding Subsection (4), a school counselor or other mental health

professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the State Board of Education, working within the school system may:

(a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

(b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;

(c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section 53A-13-302; and

(d) provide to a parent or guardian, upon the specific request of the parent or guardian, a list of three or more health care professionals or providers, including licensed physicians, psychologists, or other health specialists.

(7) Local school boards or charter schools shall adopt a policy:

(a) providing for training of appropriate school personnel on the provisions of this section; and

(b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section 53A-8a-502.

(8) Nothing in this section shall be interpreted as discouraging general communication not prohibited by this section between school personnel and a student's parent or guardian.

Amended by Chapter 335, 2013 General Session

53A-11-801. Definitions.

As used in this part:

(1) "Child" or "minor child" means a person:

(a) under the age of 18; or

(b) under the age of 23 who is receiving educational services as an individual with a disability.

(2) "Corporal punishment" means the intentional infliction of physical pain upon the body of a minor child as a disciplinary measure.

(3) "School" means any public or private elementary or secondary school, pre-school, care center, nursery school, or business which receives compensation for supervising or educating a child.

Enacted by Chapter 251, 1992 General Session

53A-11-802. Prohibition of corporal punishment -- Use of reasonable and necessary physical restraint or force.

(1) A school employee may not inflict or cause the infliction of corporal punishment upon a child who is receiving services from the school, unless written permission has been given by the student's parent or guardian to do so.

(2) This section does not prohibit the use of reasonable and necessary physical restraint or force in self defense or otherwise appropriate to the circumstances to:

(a) obtain possession of a weapon or other dangerous object in the possession or under the control of a child;

(b) protect the child or another person from physical injury;

(c) remove from a situation a child who is violent or disruptive; or

(d) protect property from being damaged.

(3) (a) Any rule, ordinance, policy, practice, or directive which purports to direct or permit the commission of an act prohibited by this part is void and unenforceable.

(b) An employee may not be subjected to any sanction for failure or refusal to commit an act prohibited under this part.

(4) A parochial or private school may exempt itself from the provisions of this section by adopting a policy to that effect and notifying the parents or guardians of children in the school of the exemption.

Enacted by Chapter 251, 1992 General Session

53A-11-803. Investigation of complaint -- Confidentiality -- Immunity.

(1) (a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.

(b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.

(2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section 62A-4a-412.

(3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

Amended by Chapter 260, 1994 General Session

53A-11-804. Liability.

(1) (a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section 76-2-401 may not be used as a basis for any civil or criminal action.

(b) A court of competent jurisdiction may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections 76-2-401 and 53A-11-805.

Enacted by Chapter 251, 1992 General Session

53A-11-805. Exception.

Behavior reduction intervention which is in compliance with Section 76-2-401

and with state and local rules adopted under Section 53A-15-301 is excepted from this part.

Enacted by Chapter 251, 1992 General Session

53A-11-806. Defacing or injuring school property -- Student's liability -- Voluntary work program alternative.

(1) Any student who willfully defaces or otherwise injures any school property may be suspended or otherwise disciplined.

(2) (a) Any school district whose property has been lost or willfully cut, defaced, or otherwise injured may withhold the issuance of official written grade reports, diploma, and transcripts of the student responsible for the damage or loss until the student or the student's parent or guardian has paid for the damages.

(b) The student's parent or guardian is liable for damages as otherwise provided in Section 78A-6-1113.

(3) (a) If the student and the student's parent or guardian are unable to pay for the damages or if it is determined by the school in consultation with the student's parents that the student's interests would not be served if the parents were to pay for the damages, then, the school district shall provide for a program of voluntary work for the student in lieu of the payment.

(b) The district shall release the official grades, diploma, and transcripts of the student upon completion of the voluntary work.

(4) Before any penalties are assessed under this section, the local school board shall adopt procedures to insure that the student's right to due process is protected.

(5) No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.

(6) If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, that student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

Amended by Chapter 3, 2008 General Session

53A-11-901. Public school discipline policies -- Basis of the policies -- Enforcement.

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2) (a) To foster such an environment, each local school board or governing board of a charter school, with input from school employees, parents and guardians of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools.

(b) Each district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted rules of conduct; and

(ii) to show respect for other people and to obey persons in authority at the

school.

(c) (i) The State Superintendent of Public Instruction shall develop conduct and discipline policy models for elementary and secondary public schools.

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents or guardians understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

Amended by Chapter 161, 2007 General Session

53A-11-901.5. Period of silence.

A teacher may provide for the observance of a period of silence each school day in a public school.

Renumbered and Amended by Chapter 10, 1997 General Session

53A-11-902. Conduct and discipline policies and procedures.

The conduct and discipline policies required under Section 53A-11-901 shall include:

- (1) provisions governing student conduct, safety, and welfare;
- (2) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;
- (3) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (2);
- (4) procedures for the use of reasonable and necessary physical restraint or force in dealing with disruptive students, consistent with Section 53A-11-802;
- (5) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (2), if the conduct threatens harm or does harm to:
 - (a) the school;
 - (b) school property;
 - (c) a person associated with the school; or
 - (d) property associated with a person described in Subsection (5)(c);
- (6) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;
- (7) specific provisions, consistent with Section 53A-15-603, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events; and
- (8) standards and procedures for dealing with habitual disruptive student behavior in accordance with the provisions of this part.

Amended by Chapter 207, 2010 General Session

53A-11-903. Suspension and expulsion procedures -- Notice to parents -- Distribution of policies.

(1) (a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.

(b) (i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.

(ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.

(iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a procedure adopted by the local school board or the governing board of a charter school.

(2) (a) Each local school board or governing board of a charter school shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.

(b) A copy of the policy shall be posted in a prominent location in each school.

(c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

Amended by Chapter 161, 2007 General Session

53A-11-904. Grounds for suspension or expulsion from a public school.

(1) A student may be suspended or expelled from a public school for any of the following reasons:

(a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;

(b) willful destruction or defacing of school property;

(c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;

(d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;

(e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or

(f) possession or use of pornographic material on school property.

(2) (a) A student shall be suspended or expelled from a public school for any of the following reasons:

(i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual or threatened use of a look alike weapon with intent to intimidate

another person or to disrupt normal school activities; or

(C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or

(ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent or legal guardian; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53A-11-907, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or governing board of a charter school and giving highest priority to providing a safe school environment for all students.

(3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.

(4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53A-11-102(1).

(5) Each local school board and governing board of a charter school shall prepare an annual report for the State Board of Education on:

(a) each violation committed under this section; and

(b) each action taken by the school district against a student who committed the violation.

Amended by Chapter 276, 2010 General Session

**53A-11-905. Delegation of authority to suspend or expel a student --
Procedure for suspension -- Readmission.**

(1) (a) A local board of education may delegate to any school principal or assistant principal within the school district the power to suspend a student in the principal's school for up to 10 school days.

(b) A governing board of a charter school may delegate to the chief administrative officer of the charter school the power to suspend a student in the charter school for up to 10 school days.

(2) The board may suspend a student for up to one school year or delegate that power to the district superintendent, the superintendent's designee, or chief

administrative officer of a charter school.

(3) The board may expel a student for a fixed or indefinite period, provided that the expulsion shall be reviewed by the district superintendent or the superintendent's designee and the conclusions reported to the board, at least once each year.

(4) If a student is suspended, a designated school official shall notify the parent or guardian of the student of the following without delay:

- (a) that the student has been suspended;
- (b) the grounds for the suspension;
- (c) the period of time for which the student is suspended; and
- (d) the time and place for the parent or guardian to meet with a designated school official to review the suspension.

(5) (a) A suspended student shall immediately leave the school building and the school grounds following a determination by the school of the best way to transfer custody of the student to the parent or guardian or other person authorized by the parent or applicable law to accept custody of the student.

(b) Except as otherwise provided in Subsection (5)(c), a suspended student may not be readmitted to a public school until:

(i) the student and the parent or guardian have met with a designated school official to review the suspension and agreed upon a plan to avoid recurrence of the problem; or

(ii) in the discretion of the principal or chief administrative officer of a charter school, the parent or guardian of the suspended student and the student have agreed to participate in such a meeting.

(c) A suspension may not extend beyond 10 school days unless the student and the student's parent or guardian have been given a reasonable opportunity to meet with a designated school official and respond to the allegations and proposed disciplinary action.

Amended by Chapter 161, 2007 General Session

53A-11-906. Alternatives to suspension or expulsion.

(1) Each local school board or governing board of a charter school shall establish:

(a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school; and

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent or guardian, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

(2) If the parent or guardian does not agree or fails to attend class with the student, the student shall be suspended in accordance with the conduct and discipline policies of the district or the school.

(3) The parent or guardian of a suspended student and the designated school

official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies, if necessary, in dealing with the student's suspension.

(4) The state superintendent of public instruction, in cooperation with school districts and charter schools, shall:

- (a) research methods of motivating and providing incentives to students that:
 - (i) directly and regularly reward or recognize appropriate behavior;
 - (ii) impose immediate and direct consequences on students who fail to comply with district or school standards of conduct; and
 - (iii) keep the students in school, or otherwise continue student learning with appropriate supervision or accountability;
- (b) explore funding resources to implement methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);
- (c) evaluate the benefits and costs of methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);
- (d) publish a report that incorporates the research findings, provides model plans with suggested resource pools, and makes recommendations for local school boards and school personnel;
- (e) submit the report described in Subsection (4)(d) to the Education Interim Committee; and
- (f) maintain data for purposes of accountability, later reporting, and future analysis.

Amended by Chapter 82, 2007 General Session

Amended by Chapter 161, 2007 General Session

53A-11-907. Student suspended or expelled -- Responsibility of parent or guardian -- Application for students with disabilities.

(1) If a student is suspended or expelled from a public school under this part for more than 10 school days, the parent or guardian is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion.

(2) (a) The parent or guardian shall work with designated school officials to determine how that responsibility might best be met through private education, an alternative program offered by or through the district or charter school, or other alternative which will reasonably meet the educational needs of the student.

(b) The parent or guardian and designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies to meet the student's educational needs.

(3) Costs for educational services which are not provided by the school district or charter school are the responsibility of the student's parent or guardian.

(4) (a) Each school district or charter school shall maintain a record of all suspended or expelled students and a notation of the recorded suspension or expulsion shall be attached to the individual student's transcript.

(b) The district or charter school shall contact the parent or guardian of each suspended or expelled student under the age of 16 at least once each month to

determine the student's progress.

(5) (a) This part applies to students with disabilities to the extent permissible under applicable law or regulation.

(b) If application of any requirement of this part to a student with a disability is not permissible under applicable law or regulation, the responsible school authority shall implement other actions consistent with the conflicting law or regulation which shall most closely correspond to the requirements of this part.

Amended by Chapter 161, 2007 General Session

53A-11-908. Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability.

(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

(b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;

(c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;

(d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and

(e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and rules of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2) (a) The State Board of Education may, and local boards of education and governing boards of charter schools shall, adopt rules implementing this section that apply to both students and staff.

(b) Those rules shall include prohibitions against the following types of conduct, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53A-11-902(5)(a) through (d):

(i) use of foul, abusive, or profane language while engaged in school related activities;

(ii) illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette as defined in Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and

(iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced

ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

(3) (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53A-11-1004 apply to this section.

Amended by Chapter 114, 2010 General Session

53A-11-910. Disruptive student behavior.

(1) As used in this section:

(a) "Disruptive student behavior" includes:

(i) the grounds for suspension or expulsion described in Section 53A-11-904;
and

(ii) the conduct described in Subsection 53A-11-908(2)(b).

(b) "Parent" includes:

(i) a custodial parent of a school-age minor;
(ii) a legally appointed guardian of a school-age minor; or
(iii) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (1)(b)(i) or (ii).

(c) "Qualifying minor" means a school-age minor who:

(i) is at least nine years old; or
(ii) turns nine years old at any time during the school year.

(d) "School year" means the period of time designated by a local school board or local charter board as the school year for the school where the school-age minor is enrolled.

(2) A local school board, school district, governing board of a charter school, or charter school may impose administrative penalties on a school-age minor who violates this part.

(3) (a) It is unlawful for a school-age minor to engage in disruptive student behavior.

(b) A qualifying minor is subject to the jurisdiction of the juvenile court if the qualifying minor:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

(B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or

expulsion, at least twice during the school year.

(4) (a) A local school board or governing board of a charter school shall:

(i) authorize a school administrator or a designee of a school administrator to issue notices of disruptive student behavior to qualifying minors; and

(ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to contest a notice of disruptive student behavior.

(b) A school representative shall provide to a parent of a school-age minor, a list of resources available to assist the parent in resolving the school-age minor's disruptive student behavior problem.

(c) A local school board or governing board of a charter school shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in disruptive student behavior in order to attempt to resolve the minor's disruptive student behavior problems before the qualifying minor becomes subject to the jurisdiction of the juvenile court as provided for under this section.

(5) The notice of disruptive student behavior described in Subsection (4)(a):

(a) shall be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, three times during the school year; or

(ii) engages in disruptive student behavior, that results in suspension or expulsion, once during the school year;

(b) shall require that the qualifying minor and a parent of the qualifying minor:

(i) meet with school authorities to discuss the qualifying minor's disruptive student behavior; and

(ii) cooperate with the local school board or governing board of a charter school in correcting the school-age minor's disruptive student behavior;

(c) shall contain a statement indicating:

(i) the number of additional times that, if the qualifying minor engages in disruptive student behavior that does not result in suspension or expulsion, will result in the qualifying minor receiving a habitual disruptive student behavior citation; and

(ii) that the qualifying minor will receive a habitual disruptive student behavior citation if the qualifying minor engages in disruptive student behavior that results in suspension or expulsion; and

(d) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.

(6) A habitual disruptive student behavior citation:

(a) may only be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

(B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and

(b) may only be issued by a school administrator, a designee of a school

administrator, or a truancy specialist, who is authorized by a local school board or governing board of a local charter school to issue habitual disruptive student behavior citations.

(7) (a) A qualifying minor to whom a habitual disruptive student behavior citation is issued under Subsection (6) shall be referred to the juvenile court for violation of Subsection (3).

(b) Within five days after the day on which a habitual disruptive student behavior citation is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the citation, of the efforts made by a school counselor or representative under Subsection (4)(c).

(8) Nothing in this part prohibits a local school board, school district, governing board of a charter school, or charter school from taking any lawful action not in conflict with the provisions of this section, including action described in this part and action relating to a habitually truant or ungovernable child, to address a disruptive student behavior problem of:

(a) a school-age minor who is not a qualifying minor; or

(b) a qualifying minor, regardless of the number of times that the qualifying minor has engaged in disruptive student behavior during the school year.

Amended by Chapter 250, 2008 General Session

53A-11-1001. Notification by juvenile court and law enforcement agencies.

(1) Notifications received from the juvenile court or law enforcement agencies by the school district pursuant to Subsections 78A-6-112(3)(b) and 78A-6-117(1)(b) are governed by this part.

(2) School districts may enter into agreements with law enforcement agencies for notification under Subsection (1).

Amended by Chapter 3, 2008 General Session

53A-11-1002. Superintendent required to notify school.

(1) Within three days of receiving the information from the juvenile court or a law enforcement agency, the district superintendent shall notify the principal of the school the juvenile attends or last attended.

(2) Upon receipt of the information, the principal shall:

(a) make a notation in a secure file other than the student's permanent file; and

(b) if the student is still enrolled in the school, notify staff members who, in his opinion, should know of the adjudication.

(3) A person receiving information pursuant to this part may only disclose the information to other persons having both a right and a current need to know.

(4) Access to secure files shall be limited to persons authorized to receive information under this part.

Amended by Chapter 102, 2004 General Session

53A-11-1003. Board to set procedures.

The State Board of Education shall make rules governing the dissemination of the information.

Enacted by Chapter 256, 1994 General Session

53A-11-1004. Liability for release of information.

(1) The district superintendent, principal, and any staff member notified by the principal may not be held liable for information which may become public knowledge unless it can be shown by clear and convincing evidence that the information became public knowledge through an intentional act of the superintendent, principal, or a staff member.

(2) A person receiving information under Subsection 78A-6-112(3)(b), 78A-6-117(1)(b), or Section 53A-11-1002 is immune from any liability, civil or criminal, for acting or failing to act in response to the information unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

Amended by Chapter 3, 2008 General Session

53A-11-1101. Notification of teachers of weapons on school property -- Immunity from civil and criminal liability.

(1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.

(2) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

Enacted by Chapter 256, 1994 General Session

53A-11-1201. Title.

This part is known as the "Student Clubs Act."

Enacted by Chapter 114, 2007 General Session

53A-11-1202. Definitions.

As used in this part:

- (1) "Bigotry" means action or advocacy of imminent action involving:
 - (a) the harassment or denigration of a person or entity; or
 - (b) any intent to cause a person not to freely enjoy or exercise any right secured by the constitution or laws of the United States or the state, except that an evaluation or prohibition may not be made of the truth or falsity of any religious belief or expression of conscience unless the means of expression or conduct arising therefrom violates the standards of conduct outlined in this section, Section 53A-13-101.3, or 20 U.S.C. Section 4071(f).

(2) "Club" means any student organization that meets during noninstructional time.

(3) "Conscience" means a standard based upon learned experiences, a personal philosophy or system of belief, religious teachings or doctrine, an absolute or external sense of right and wrong which is felt on an individual basis, a belief in an external absolute, or any combination of the foregoing.

(4) "Curricular club" means a club that is school sponsored and that may receive leadership, direction, and support from the school or school district beyond providing a meeting place during noninstructional time. An elementary school curricular club means a club that is organized and directed by school sponsors at the elementary school. A secondary school curricular club means a club:

- (a) whose subject matter is taught or will soon be taught in a regular course;
- (b) whose subject matter concerns the body of courses as a whole;
- (c) in which participation is required for a particular course; or
- (d) in which participation results in academic credit.

(5) (a) "Discretionary time" means school-related time for students that is not instructional time.

(b) "Discretionary time" includes free time before and after school, during lunch and between classes or on buses, and private time before athletic and other events or activities.

(6) (a) "Encourage criminal or delinquent conduct" means action or advocacy of imminent action that violates any law or administrative rule.

(b) "Encourage criminal or delinquent conduct" does not include discussions concerning changing of laws or rules, or actions taken through lawfully established channels to effectuate such change.

(7) (a) "Instructional time" means time during which a school is responsible for a student and the student is required or expected to be actively engaged in a learning activity.

(b) "Instructional time" includes instructional activities in the classroom or study hall during regularly scheduled hours, required activities outside the classroom, and counseling, private conferences, or tutoring provided by school employees or volunteers acting in their official capacities during or outside of regular school hours.

(8) "Involve human sexuality" means:

(a) presenting information in violation of laws governing sex education, including Sections 53A-13-101 and 53A-13-302;

(b) advocating or engaging in sexual activity outside of legally recognized marriage or forbidden by state law; or

(c) presenting or discussing information relating to the use of contraceptive devices or substances, regardless of whether the use is for purposes of contraception or personal health.

(9) "Limited open forum" means a forum created by a school district or charter school for student expression within the constraints of Subsection 53A-13-101.3(2)(b).

(10) "Noncurricular club" is a student initiated group that may be authorized and allowed school facilities use during noninstructional time in secondary schools by a school and school governing board in accordance with the provisions of this part. A noncurricular club's meetings, ideas, and activities are not sponsored or endorsed in

any way by a school governing board, the school, or by school or school district employees.

(11) "Noninstructional time" means time set aside by a school before instructional time begins or after instructional time ends, including discretionary time.

(12) "Religious club" means a noncurricular club designated in its application as either being religiously based or based on expression or conduct mandated by conscience.

(13) "School" means a public school, including a charter school.

(14) (a) "School facilities use" means access to a school facility, premises, or playing field.

(b) "School facilities use" includes access to a limited open forum.

(15) "School governing board" means a local school board or charter school board.

Amended by Chapter 403, 2011 General Session

53A-11-1203. Student clubs -- Limited open forum -- Authorization.

(1) (a) A school may establish and maintain a limited open forum for student clubs pursuant to the provisions of this part, State Board of Education rules, and school governing board policies.

(b) Notwithstanding the provisions under Subsection (1)(a), a school retains the right to create a closed forum at any time by allowing curricular clubs only.

(2) (a) A school shall review applications for authorization of clubs on a case-by-case basis.

(b) Before granting an authorization, the school shall find:

(i) that the proposed club meets this part's respective requirements of a curricular club or a noncurricular club; and

(ii) that the proposed club's purpose and activities comply with this part.

(c) Before granting an authorization, a school may request additional information from the faculty sponsor, from students proposing the club, or from its school governing board, if desired.

(3) A school shall grant authorization and school facilities use to curricular and noncurricular clubs whose applications are found to meet the requirements of this part, rules of the State Board of Education, and policies of the school governing board and shall limit or deny authorization or school facilities use to proposed clubs that do not meet the requirements of this part, rules of the State Board of Education, and policies of the school governing board.

Amended by Chapter 403, 2011 General Session

53A-11-1204. Curricular clubs -- Authorization.

(1) Faculty members or students proposing a curricular club shall submit written application for authorization on a form approved by the school governing board.

(2) A school governing board may exempt a club whose membership is determined by student body election or a club that is governed by an association that regulates interscholastic activities from the authorization requirements under this

section.

(3) An application for authorization of a curricular club shall include:

(a) the recommended club name;

(b) a statement of the club's purpose, goals, and activities;

(c) a statement of the club's categorization, which shall be included in the parental consent required under Section 53A-11-1210, indicating all of the following that may apply:

(i) athletic;

(ii) business/economic;

(iii) agriculture;

(iv) art/music/performance;

(v) science;

(vi) gaming;

(vii) religious;

(viii) community service/social justice; and

(ix) other;

(d) the recommended meeting times, dates, and places;

(e) a statement that the club will comply with the provisions of this part and all other applicable laws, rules, or policies; and

(f) a budget showing the amount and source of any funding provided or to be provided to the club and its proposed use.

(4) The application may be as brief as a single page so long as it contains the items required under this section.

(5) A school shall approve the name of a curricular club consistent with the club's purposes and its school sponsorship.

(6) (a) A school shall determine curriculum relatedness by strictly applying this part's definition of curricular club to the club application.

(b) If the school finds that the proposed club is a curricular club, the school shall continue to review the application as an application for authorization of a curricular club.

(c) If the school finds that the proposed club is a noncurricular club, the school may:

(i) return the application to the faculty member or students proposing the club for amendment; or

(ii) review the application as an application for authorization of a noncurricular club.

(7) (a) Only curricular clubs may be authorized for elementary schools.

(b) A school governing body may limit, or permit a secondary school to limit, the authorization of clubs at the secondary school to only curricular clubs.

Enacted by Chapter 114, 2007 General Session

53A-11-1205. Noncurricular clubs -- Annual authorization.

(1) A noncurricular club shall have a minimum of three members.

(2) Students proposing a noncurricular club shall submit a written application for authorization on a form approved by the school governing board.

(3) An application for authorization of a noncurricular club shall include:

(a) the recommended club name;
(b) a statement of the club's purpose, goals, and activities;
(c) a statement of the club's categorization, which shall be included in the parental consent required under Section 53A-11-1210, indicating all of the following that may apply:

- (i) athletic;
 - (ii) business/economic;
 - (iii) agriculture;
 - (iv) art/music/performance;
 - (v) science;
 - (vi) gaming;
 - (vii) religious;
 - (viii) community service/social justice; and
 - (ix) other;
- (d) the recommended meeting times, dates, and places;
(e) a statement that the club will comply with the provisions of this part and all other applicable laws, rules, or policies; and
(f) a budget showing the amount and source of any funding provided or to be provided to the club and its proposed use.

(4) The application may be as brief as a single page so long as it contains the items required under this section.

(5) (a) A school governing board may provide for approval of a noncurricular club name in an action separate from that relating to authorization of the club itself.

(b) A school governing board shall require:

- (i) that a noncurricular club name shall reasonably reflect the club's purpose, goals, and activities; and
- (ii) that the noncurricular club name shall be a name that would not result in or imply a violation of this part.

Enacted by Chapter 114, 2007 General Session

53A-11-1206. Clubs -- Limitations and denials.

(1) A school shall limit or deny authorization or school facilities use to a club, or require changes prior to granting authorization or school facilities use:

- (a) as the school determines it to be necessary to:
 - (i) protect the physical, emotional, psychological, or moral well-being of students and faculty;
 - (ii) maintain order and discipline on school premises;
 - (iii) prevent a material and substantial interference with the orderly conduct of a school's educational activities;
 - (iv) protect the rights of parents or guardians and students;
 - (v) maintain the boundaries of socially appropriate behavior; or
 - (vi) ensure compliance with all applicable laws, rules, regulations, and policies;
- or

(b) if a club's proposed charter and proposed activities indicate students or advisors in club related activities would as a substantial, material, or significant part of

their conduct or means of expression:

- (i) encourage criminal or delinquent conduct;
- (ii) promote bigotry;
- (iii) involve human sexuality; or
- (iv) involve any effort to engage in or conduct mental health therapy, counseling, or psychological services for which a license would be required under state law.

(2) A school governing board has the authority to determine whether any club meets the criteria of Subsection (1).

(3) If a school or school governing board limits or denies authorization to a club, the school or school governing board shall provide, in writing, to the applicant the factual and legal basis for the limitation or denial.

(4) A student's spontaneous expression of sentiments or opinions otherwise identified in Subsection 53A-13-302(1) is not prohibited.

Amended by Chapter 403, 2011 General Session

53A-11-1207. Faculty oversight of authorized clubs.

(1) A school shall approve the faculty sponsor, supervisor, or monitor for each authorized curricular, noncurricular, and religious club to provide oversight consistent with this part and the needs of the school to ensure that the methods of expression, religious practices, or other conduct of the students or advisors involved do not:

- (a) unreasonably interfere with the ability of school officials to maintain order and discipline;
- (b) unreasonably endanger or threaten the well-being of persons or property;
- (c) violate concepts of civility or propriety appropriate to a school setting; or
- (d) violate applicable laws, rules, regulations, and policies.

(2) (a) A school shall annually approve faculty members as sponsors of curricular clubs.

(b) Faculty sponsors shall organize and direct the purpose and activities of a curricular club.

(3) (a) A school shall approve faculty members to serve as supervisors for authorized noncurricular clubs.

(b) A faculty supervisor shall provide oversight to ensure compliance with the approved club purposes, goals, and activities and with the provisions of this part and other applicable laws, rules, and policies.

(c) The approval of a faculty supervisor or monitor does not constitute school sponsorship of the club.

(d) A faculty monitor approved for a religious club may not participate in the activities of the religious club, except to perform the supervisory role required by this section.

(4) Without the prior approval by the school, a person who is not a school faculty member or a club member may not:

- (a) make a presentation to a noncurricular club; or
- (b) direct, conduct, control, or regularly attend the meetings of a noncurricular club.

Enacted by Chapter 114, 2007 General Session

53A-11-1208. Use of school facilities by clubs.

(1) A school shall determine and assign school facilities use for curricular and noncurricular clubs consistent with the needs of the school.

(2) The following rules apply to curricular clubs:

(a) in assigning school facilities use, the administrator may give priority to curricular clubs over noncurricular clubs; and

(b) the school may provide financial or other support to curricular clubs.

(3) The following rules apply to noncurricular clubs:

(a) a preference or priority may not be given among noncurricular clubs;

(b) (i) a school shall only provide the space for noncurricular club meetings; and

(ii) a school may not spend public funds for noncurricular clubs, except as required to implement the provisions of this part, including providing space and faculty oversight for noncurricular clubs;

(c) a school shall establish the noninstructional times during which noncurricular clubs may meet;

(d) a school may establish the places that noncurricular clubs may meet;

(e) a school may set the number of hours noncurricular clubs may use the school's facilities per month, provided that all noncurricular clubs shall be treated equally; and

(f) a school shall determine what access noncurricular clubs shall be given to the school newspaper, yearbook, bulletin boards, or public address system, provided that all noncurricular clubs shall be treated equally.

Amended by Chapter 403, 2011 General Session

53A-11-1209. Club membership.

(1) A school shall require written parental or guardian consent for student participation in all curricular and noncurricular clubs at the school.

(2) Membership in curricular clubs is governed by the following rules:

(a) (i) membership may be limited to students who are currently attending the sponsoring school or school district; and

(ii) members who attend a school other than the sponsoring school shall have, in addition to the consent required under Section 53A-11-1210, specific parental or guardian permission for membership in a curricular club at another school;

(b) (i) curricular clubs may require that prospective members try out based on objective criteria outlined in the application materials; and

(ii) try-outs may not require activities that violate the provisions of this part and other applicable laws, rules, and policies; and

(c) other rules as determined by the State Board of Education, school district, or school.

(3) Membership in noncurricular clubs is governed by the following rules:

(a) student membership in a noncurricular club is voluntary;

(b) membership shall be limited to students who are currently attending the school;

(c) (i) noncurricular clubs may require that prospective members try out based on objective criteria outlined in the application materials; and

(ii) try-outs may not require activities that violate the provisions of this part and other applicable laws, rules, and policies;

(d) a copy of any written or other media materials that were presented at a noncurricular club meeting by a nonschool person shall be delivered to a school administrator no later than 24 hours after the noncurricular club meeting and, if requested, a student's parent or legal guardian shall have an opportunity to review those materials; and

(e) other rules as determined by the State Board of Education, school district, or school.

Enacted by Chapter 114, 2007 General Session

53A-11-1210. Parental consent.

(1) A school shall require written parental or guardian consent for student participation in all curricular and noncurricular clubs at the school.

(2) The consent described in Subsection (1) shall include an activity disclosure statement containing the following information:

(a) the specific name of the club;

(b) a statement of the club's purpose, goals, and activities;

(c) a statement of the club's categorization, which shall be obtained from the application for authorization of a club in accordance with the provisions of Section 53A-11-1204 or 53A-11-1205, indicating all of the following that may apply:

(i) athletic;

(ii) business/economic;

(iii) agriculture;

(iv) art/music/performance;

(v) science;

(vi) gaming;

(vii) religious;

(viii) community service/social justice; and

(ix) other;

(d) beginning and ending dates;

(e) a tentative schedule of the club activities with dates, times, and places specified;

(f) personal costs associated with the club, if any;

(g) the name of the sponsor, supervisor, or monitor who is responsible for the club; and

(h) any additional information considered important for the students and parents to know.

(3) All completed parental consent forms shall be filed by the parent or the club's sponsor, supervisor, or monitor with the school's principal, the chief administrative officer of a charter school, or their designee.

Enacted by Chapter 114, 2007 General Session

53A-11-1211. Violations -- Investigations -- School responses.

(1) A school shall investigate any report or allegation that an authorized curricular or noncurricular club is:

- (a) participating in activities beyond the scope of its purpose; or
- (b) in violation of a provision of this part or another applicable law, rule, regulation, or policy.

(2) After meeting with the faculty sponsor, faculty supervisor, or faculty monitor, the students involved, and the person making the report or allegation, if a violation is substantiated, the school may do any of the following:

(a) allow the club's original statement of its purpose, goals, and activities to be modified to include the activities if they are in compliance with the provisions of this part and other applicable laws, rules, regulations, or policies;

(b) instruct the faculty sponsor, supervisor, or monitor not to allow similar violations in the future;

(c) limit or suspend the club's authorization or school facilities use pending further corrective action as determined by the school; or

(d) terminate the club's authorization and dissolve the club.

(3) Any limitation on expression, practice, or conduct of any student, advisor, or guest in a meeting of a curricular or noncurricular club, or limitation on school facilities use, shall be by the least restrictive means necessary to satisfy the school's interests as identified in this part.

(4) A club that has been terminated in accordance with Subsection (2)(d) may not reapply for authorization until the following school year.

(5) A student who makes a false allegation or report under this section shall be subject to school discipline.

Amended by Chapter 403, 2011 General Session

53A-11-1212. Appeals -- Procedures.

(1) (a) A completed application or complaint shall be approved, denied, or investigated by the school within a reasonable amount of time.

(b) If an application or complaint is denied, written reasons for the denial or results of the investigation shall be stated and, if appropriate, suggested corrections shall be made to remedy the deficiency.

(c) A club that is denied school facilities use shall be informed at the time of the denial of the factual and legal basis for the denial, and, if appropriate, how the basis for the denial could be corrected.

(2) (a) If denied, suspended, or terminated, a club, student desirous of participating or speaking, or a complaining parent or guardian, has 10 school days from the date of the denial, suspension, or termination to file a written appeal from the denial, suspension, or termination to a designee authorized by the school governing board.

(b) The designee shall issue a determination within a reasonable amount of time from receipt of the appeal, which decision is final and constitutes satisfaction of all administrative remedies unless the time for evaluation is extended by agreement of all parties.

(3) A person directly affected by a decision made in accordance with the provisions of this part may appeal the decision by writing to a person designated by the school governing board.

Amended by Chapter 403, 2011 General Session

53A-11-1213. Rulemaking -- State Board of Education -- School governing boards.

The State Board of Education may adopt additional rules and school governing boards may adopt additional rules or policies governing clubs that do not conflict with the provisions of this part.

Enacted by Chapter 114, 2007 General Session

53A-11-1214. Severability.

If any provision of this part or the application of any provision to any person or circumstance, is held invalid, the remainder of this part shall be given effect without the invalid provision or application.

Enacted by Chapter 114, 2007 General Session

53A-11-1301. Definitions.

(1) The definitions in Sections 58-37-2, 58-37a-3, and 58-37b-2 apply to this part.

(2) As used in this part:

(a) "Prohibited act" means an act punishable under Section 53A-3-501, Section 58-37-8, Section 58-37a-5, or Title 58, Chapter 37b.

(b) "School" means a public or private elementary or secondary school.

Renumbered and Amended by Chapter 3, 2008 General Session

53A-11-1302. Reporting of prohibited acts affecting a school -- Confidentiality.

(1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall immediately notify:

(a) the nearest law enforcement agency;

(b) the principal;

(c) an administrator of the affected school;

(d) the superintendent of the affected school district; or

(e) an administrator of the affected school district.

(2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.

(3) School officials may refer a complaint of an alleged prohibited act reported as occurring on school grounds or in connection with school-sponsored activities to an appropriate law enforcement agency. Referrals shall be made by school officials if the

complaint alleges the prohibited act occurred elsewhere.

(4) The identity of persons making reports pursuant to this section shall be kept confidential.

Renumbered and Amended by Chapter 3, 2008 General Session

53A-11-1303. Immunity from civil or criminal liability.

Any person, official, or institution, other than a law enforcement officer or law enforcement agency, participating in good faith in making a report or conducting an investigation under the direction of school or law enforcement authorities under this part, is immune from any liability, civil or criminal, that otherwise might result by reason of that action.

Renumbered and Amended by Chapter 3, 2008 General Session

53A-11-1304. Admissibility of evidence in civil and criminal actions.

(1) Evidence relating to violations of this part which is seized by school authorities acting alone, on their own authority, and not in conjunction with or at the behest of law enforcement authorities is admissible in civil and criminal actions.

(2) A search under this section must be based on at least a reasonable belief that the search will turn up evidence of a violation of this part. The measures adopted for the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the circumstances, including the age and sex of the person involved and the nature of the infraction.

Renumbered and Amended by Chapter 3, 2008 General Session

53A-11-1305. Board rules to ensure protection of individual rights.

The State Board of Education and local boards of education shall adopt rules to implement this part. The rules shall establish procedures to ensure protection of individual rights against excessive and unreasonable intrusion.

Renumbered and Amended by Chapter 3, 2008 General Session

53A-11-1501. Title.

This part is known as "School Safety Tip Line."

Enacted by Chapter 412, 2014 General Session

53A-11-1502. Definitions.

As used in this part, "commission" means the School Safety Tip Line Commission established in Section 53A-11-1504.

Enacted by Chapter 412, 2014 General Session

53A-11-1503. School Safety Tip Line established.

A School Safety Tip Line is established to provide a means for a public school student, parent, school employee, or citizen to make anonymous reports concerning unsafe, violent, or criminal activities, or the threat of such activities.

Enacted by Chapter 412, 2014 General Session

53A-11-1504. School Safety Tip Line Commission established -- Members.

(1) There is created the School Safety Tip Line Commission, within the Office of the Attorney General, composed of the following members:

(a) one member who represents the Office of the Attorney General, appointed by the attorney general;

(b) two members who represent the Utah Public Education System, appointed by the State Board of Education;

(c) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;

(d) two members of the House of Representatives, appointed by the speaker of the House of Representatives; and

(e) two members of the Senate, appointed by the president of the Senate.

(2) (a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(4) Formal action by the commission requires a majority vote of a quorum.

(5) (a) Except as provided in Subsection (5)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The Office of the Attorney General shall provide staff support to the commission.

Enacted by Chapter 412, 2014 General Session

53A-11-1505. School Safety Tip Line Commission duties -- Reporting requirements.

(1) (a) The commission shall:

(i) designate a School Safety Tip Line provider network after consideration of the ability of the proposed provider network's ability to:

(A) provide the services described in Section 53A-11-1503 24 hours a day, seven days a week; and

(B) employ, as operators, social workers licensed by the Division of Occupational and Professional Licensing under Section 58-60-204;

(ii) estimate the cost of operating a School Safety Tip Line including the extent to which operations will be funded through private donations and grants; and

(iii) designate a phone number for the School Safety Tip Line.

(b) The commission may conduct other business related to establishing a

School Safety Tip Line.

(2) The commission shall report to the Education Interim Committee and the Executive Appropriations Committee before November 30, 2014, regarding:

- (a) how the commission fulfilled its duties during the year; and
- (b) recommendations for future legislation related to a School Safety Tip Line.

Enacted by Chapter 412, 2014 General Session

53A-11a-101. Title.

This chapter is known as "Bullying and Hazing."

Enacted by Chapter 197, 2008 General Session

53A-11a-102. Definitions.

As used in this chapter:

- (1) (a) "Bullying" means intentionally or knowingly committing an act that:
 - (i) (A) endangers the physical health or safety of a school employee or student;
 - (B) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
 - (C) involves consumption of any food, liquor, drug, or other substance;
 - (D) involves other physical activity that endangers the physical health and safety of a school employee or student; or
 - (E) involves physically obstructing a school employee's or student's freedom to move; and
 - (ii) is done for the purpose of placing a school employee or student in fear of:
 - (A) physical harm to the school employee or student; or
 - (B) harm to property of the school employee or student.
- (b) The conduct described in Subsection (1)(a) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.
- (2) "Communication" means the conveyance of a message, whether verbal, written, or electronic.
- (3) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.
- (4) "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.
- (5) (a) "Hazing" means intentionally or knowingly committing an act that:
 - (i) (A) endangers the physical health or safety of a school employee or student;
 - (B) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(C) involves consumption of any food, liquor, drug, or other substance;
(D) involves other physical activity that endangers the physical health and safety of a school employee or student; or

(E) involves physically obstructing a school employee's or student's freedom to move; and

(ii) (A) is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or

(B) if the person committing the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.

(b) The conduct described in Subsection (5)(a) constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(6) "Policy" means a bullying and hazing policy described in Section 53A-11a-301.

(7) "Retaliate" means an act or communication intended:

(a) as retribution against a person for reporting bullying or hazing; or

(b) to improperly influence the investigation of, or the response to, a report of bullying or hazing.

(8) "School" means any public elementary or secondary school or charter school.

(9) "School board" means:

(a) a local school board; or

(b) a local charter board.

(10) "School employee" means:

(a) school teachers;

(b) school staff;

(c) school administrators; and

(d) all others employed, directly or indirectly, by the school, school board, or school district.

Amended by Chapter 235, 2011 General Session

53A-11a-201. Bullying, cyber-bullying, harassment, hazing, sexual battery, and sexual exposure prohibited.

(1) No school employee or student may engage in bullying or harassing a school employee or student:

(a) on school property;

(b) at a school related or sponsored event;

(c) on a school bus;

(d) at a school bus stop; or

(e) while the school employee or student is traveling to or from a location or event described in Subsections (1)(a) through (d).

(2) No school employee or student may engage in hazing or cyber-bullying a school employee or student at any time or in any location.

Amended by Chapter 235, 2011 General Session

53A-11a-202. Retaliation and making false allegation prohibited.

(1) No school employee or student may engage in retaliation against:

- (a) a school employee;
- (b) a student; or
- (c) an investigator for, or a witness of, an alleged incident of bullying, cyber-bullying, harassment, hazing, or retaliation.

(2) No school employee or student may make a false allegation of bullying, cyber-bullying, harassment, hazing, or retaliation against a school employee or student.

Amended by Chapter 235, 2011 General Session

53A-11a-203. Parental notification of certain incidents and threats required.

(1) For purposes of this section, "parent" includes a student's guardian.

(2) A school shall:

- (a) notify a parent if the parent's student threatens to commit suicide; or
- (b) notify the parents of each student involved in an incident of bullying, cyber-bullying, harassment, hazing, or retaliation, of the incident involving each parent's student.

(3) (a) If a school notifies a parent of an incident or threat required to be reported under Subsection (2), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.

(b) A school may not:

- (i) disclose a record described in Subsection (3)(a), including any information obtained to prepare the record, to a person other than a person authorized to receive the record described in Subsection (3)(c); or

(ii) use a record described in Subsection (3)(a), including any information obtained to prepare the record, for the school's own purposes, including the following purposes:

- (A) for a report or study;
- (B) for a statistical analysis; or
- (C) to conduct research.

(c) A school may disclose a record described in Subsection (3)(a), including any information obtained to prepare the record:

- (i) to the parent or the parent's student; or
- (ii) to a person if required to disclose the record or information to a person pursuant to the terms of a court order as described in Subsection 63G-2-202(7).

(4) A school board shall adopt a policy regarding the process for:

- (a) notifying a parent as required in Subsection (2); and
- (b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (3).

(5) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (2).

Enacted by Chapter 335, 2013 General Session

53A-11a-301. Bullying, cyber-bullying, harassment, hazing, and retaliation policy.

(1) On or before September 1, 2013, each school board shall update the school board's bullying, cyber-bullying, harassment, hazing, and retaliation policy consistent with this chapter.

(2) The policy shall:

(a) be developed only with input from:

(i) students;

(ii) parents;

(iii) teachers;

(iv) school administrators;

(v) school staff; or

(vi) local law enforcement agencies; and

(b) provide protection to a student, regardless of the student's legal status.

(3) The policy shall include the following components:

(a) definitions of bullying, cyber-bullying, harassment, and hazing that are consistent with this chapter;

(b) language prohibiting bullying, cyber-bullying, harassment, and hazing;

(c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this chapter;

(d) language prohibiting making a false report of bullying, cyber-bullying, harassment, hazing, or retaliation; and

(e) as required in Section 53A-11a-203, parental notification of:

(i) a student's threat to commit suicide; and

(ii) an incident of bullying, cyber-bullying, harassment, hazing, or retaliation involving the parent's student.

(4) A copy of the policy shall be included in student conduct handbooks and employee handbooks.

(5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, harassment, hazing, or retaliation.

(6) Nothing in this chapter is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

Amended by Chapter 335, 2013 General Session

53A-11a-302. Model policy and State Board of Education duties.

On or before September 1, 2013, the State Board of Education shall:

(1) update the State Board of Education's model policy on bullying, cyber-bullying, harassment, hazing, and retaliation; and

(2) post the model policy described in Subsection (1) on the State Board of Education's website.

Amended by Chapter 335, 2013 General Session

53A-11a-401. Training, education, and prevention.

(1) A school board shall include in the training of a school employee, training regarding bullying, cyber-bullying, harassment, hazing, and retaliation.

(2) To the extent that state or federal funding is available for this purpose, school boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection (1), to provide for training and education regarding, and the prevention of, bullying, hazing, and retaliation.

(3) The programs or initiatives described in Subsection (2) may involve:

- (a) the establishment of a bullying task force; or
- (b) the involvement of school employees, students, or law enforcement.

Amended by Chapter 235, 2011 General Session

53A-11a-402. Other forms of legal redress.

(1) Nothing in this chapter prohibits a victim of bullying, cyber-bullying, harassment, hazing, or retaliation from seeking legal redress under any other provisions of civil or criminal law.

(2) This section does not create or alter tort liability.

Amended by Chapter 235, 2011 General Session

53A-12-101. Schools to be free -- Age limitations.

(1) Except as otherwise provided in Title 53A, in each school district the public schools shall be free to all children between five and 18 years of age who are residents of the district, and also to persons over 18 who are domiciled in the state of Utah and have not completed high school.

(2) A person over the age of 18 taking courses under this section must declare an intent to complete requirements for a high school diploma. All courses taken must lead toward that diploma and must be approved by those directly responsible for administering the program.

(3) A person required to pay tuition under this section may have the tuition waived under Section 53A-15-404.

Enacted by Chapter 2, 1988 General Session

53A-12-102. State policy on student fees, deposits, or other charges.

(1) For purposes of this part:

- (a) "Board" means the State Board of Education.
- (b) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.
- (c) "Secondary school student":
 - (i) means a student enrolled in a secondary school; and
 - (ii) includes a student in grade 6 if the student attends a secondary school.

- (2) (a) A secondary school may impose fees to secondary school students.
- (b) The board shall adopt rules regarding the imposition of fees in secondary schools in accordance with the requirements of this part.
- (3) A fee, deposit, or other charge may not be made, or any expenditure required of a student or the student's parent or guardian, as a condition for student participation in an activity, class, or program provided, sponsored, or supported by or through a public school or school district, unless authorized by the local school board or charter school governing board under rules adopted by the board.
- (4) (a) A fee, deposit, charge, or expenditure may not be required for elementary school activities which are part of the regular school day or for supplies used during the regular school day.
- (b) An elementary school or elementary school teacher may compile and provide to a student's parent or guardian a suggested list of supplies for use during the regular school day so that a parent or guardian may furnish on a voluntary basis those supplies for student use.
- (c) A list provided to a student's parent or guardian pursuant to Subsection (4)(b) shall include and be preceded by the following language:
- "NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

Amended by Chapter 377, 2013 General Session

53A-12-103. Waiver of fees.

- (1) (a) A local school board shall require, as part of an authorization granted under Section 53A-12-102, that adequate waivers or other provisions are available to ensure that no student is denied the opportunity to participate because of an inability to pay the required fee, deposit, or charge.
- (b) (i) If, however, a student must repeat a course or requires remediation to advance or graduate and a fee is associated with the course or the remediation program, it is presumed that the student will pay the fee.
- (ii) If the student or the student's parent or guardian is financially unable to pay the fee, the board shall provide for alternatives to waiving the fee, which may include installment payments and school or community service or work projects for the student.
- (iii) In cases of extreme financial hardship or where the student has suffered a long-term illness, or death in the family, or other major emergency and where installment payments and the imposition of a service or work requirement would not be reasonable, the student may receive a partial or full waiver of the fee required under Subsection (1)(b)(i).
- (iv) The waiver provisions in Subsections (2) and (3) apply to all other fees, deposits, and charges made in the secondary schools.
- (2) (a) The board shall require each school in the district that charges a fee under this chapter to provide a variety of alternatives for satisfying the fee requirement to those who qualify for fee waivers, in addition to the outright waiver of the fee.
- (b) The board shall develop and provide a list of alternatives for the schools, including such options as allowing the student to provide:

- (i) tutorial assistance to other students;
 - (ii) assistance before or after school to teachers and other school personnel on school related matters; and
 - (iii) general community or home service.
- (c) Each school may add to the list of alternatives provided by the board, subject to approval by the board.
- (3) A local school board may establish policies providing for partial fee waivers or other alternatives for those students who, because of extenuating circumstances, are not in a financial position to pay the entire fee.
- (4) With regard to children who are in the custody of the Division of Child and Family Services who are also eligible under Title IV-E of the federal Social Security Act, local school boards shall require fee waivers or alternatives in accordance with Subsections (1) through (3).
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:
- (a) requiring a parent or guardian of a student applying for a fee waiver to provide documentation and certification to the school verifying:
 - (i) the student's eligibility to receive the waiver; and
 - (ii) that the alternatives for satisfying the fee requirements under Subsection (2) have been complied with to the fullest extent reasonably possible according to the individual circumstances of both the fee waiver applicant and the school; and
 - (b) specifying the acceptable forms of documentation for the requirement under Subsection (5)(a), which shall include verification based on income tax returns or current pay stubs.
- (6) Notwithstanding the requirements under Subsection (5), a school is not required to keep documentation on file after the verification is completed.

Amended by Chapter 382, 2008 General Session

53A-12-104. Notice of student fees and waivers.

A local school board shall annually give written notice of its student fee schedules and fee waiver policies to the parent or guardian of a child who attends a public school within the district.

Enacted by Chapter 2, 1988 General Session

53A-12-201. State policy on providing textbooks.

- (1) It is the public policy of this state that public education shall be free.
- (2) A student may not be denied an education because of economic inability to purchase textbooks necessary for advancement in or graduation from the public school system.
- (3) A school board may not sell textbooks or otherwise charge textbook fees or deposits except as provided in Title 53A.

Enacted by Chapter 2, 1988 General Session

53A-12-202. "Textbooks" defined.

For the purposes of Sections 53A-12-201 through 53A-12-206, "textbooks" includes textbooks and workbooks necessary for participation in any instructional course. Textbooks shall not include personal or consumable items, such as pencils, papers, pens, erasers, notebooks, other items of personal use, or products which a student may purchase at his option, such as school publications, class rings, annuals, and similar items.

Enacted by Chapter 2, 1988 General Session

53A-12-204. Purchase of textbooks by local school board -- Sales to pupils -- Free textbooks -- Textbooks provided to teachers -- Payment of costs -- Rental of textbooks.

(1) A local school board, under rules adopted by the State Board of Education, may purchase textbooks for use in the public schools directly from the publisher at prices and terms approved by the state board and may sell those books to pupils in grades nine through 12 at a cost not to exceed the actual cost of the book plus costs of transportation and handling.

(2) Each local school board, however, shall provide, free of charge, textbooks and workbooks required for courses of instruction for each child attending public schools whose parent or guardian is financially unable to purchase them.

(3) Children who are receiving cash assistance under Title 35A, Chapter 3, Part 3, Family Employment Program, supplemental security income, or who are in the custody of the Division of Child and Family Services within the Department of Human Services are eligible for free textbooks and workbooks under this section.

(4) The local school board shall also purchase all books necessary for teachers to conduct their classes.

(5) The cost of furnishing textbooks and workbooks may be paid from school operating funds, the textbook fund, or from other available funds.

(6) Books provided to teachers and pupils without charge or at less than full cost are paid for out of funds of the district and remain the property of the district.

(7) In school districts that require pupils to rent books instead of purchasing them or providing them free of charge, the local school board shall waive rental fees for a child whose parent or guardian is financially unable to pay the rental fee. The children considered eligible under Subsection (3) are also eligible for the purposes of this Subsection (7).

Amended by Chapter 299, 2002 General Session

53A-12-205. Free textbook system.

(1) If a local school board considers it desirable or necessary, or if the board is petitioned by two-thirds of those voting in the district, it shall provide free textbooks to all pupils in the schools under its charge.

(2) Books purchased under this section shall be paid for out of the funds of the district.

(3) The board shall assure that sufficient funds are raised and set aside for this

purpose.

(4) A board that has adopted the free textbook system shall terminate the system if petitioned by two-thirds of those voting in an election conducted for that purpose vote to terminate the system.

(5) The board may not act upon a petition to terminate the free textbook system during a period of four years after the system is adopted.

(6) The board may not reinstitute a free textbook system until four years after its termination.

Enacted by Chapter 2, 1988 General Session

53A-12-206. Repurchase and resale of textbooks.

(1) If a student moves from a district in which free textbooks were not provided, the school board of that district may purchase the books used by the student at a reasonable price, based upon the original cost and the condition of the book upon return.

(2) The books purchased by the district under this section may be resold to other students in the district.

Enacted by Chapter 2, 1988 General Session

53A-12-207. Disposal of textbooks.

(1) For a school year beginning with or after the 2012-13 school year, a local school district may not dispose of textbooks used in its public schools without first notifying all other school districts in the state of its intent to dispose of the textbooks.

(2) Subsection (1) does not apply to textbooks that have been damaged, mutilated, or worn out.

(3) The State Board of Education shall develop rules and procedures directing the disposal of textbooks.

Amended by Chapter 305, 2010 General Session

53A-13-101. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) (a) The State Board of Education shall establish curriculum requirements under Section 53A-1-402, that include instruction in:

- (i) community and personal health;
- (ii) physiology;
- (iii) personal hygiene; and
- (iv) prevention of communicable disease.

(b) (i) That instruction shall stress:

- (A) the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases; and
- (B) personal skills that encourage individual choice of abstinence and fidelity.

(ii) (A) At no time may instruction be provided, including responses to

spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(B) Subsection (1)(b)(ii)(A) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(c) (i) The board shall recommend instructional materials for use in the curricula required under Subsection (1)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.

(ii) A local school board may choose to adopt:

(A) the instructional materials recommended under Subsection (1)(c)(i); or

(B) other instructional materials as provided in state board rule.

(iii) The state board rule made under Subsection (1)(c)(ii)(B) shall include, at a minimum:

(A) that the materials adopted by a local school board under Subsection (1)(c)(ii)(B) shall be based upon recommendations of the school district's Curriculum Materials Review Committee that comply with state law and state board rules emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction in:

(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(II) the advocacy of homosexuality;

(III) the advocacy or encouragement of the use of contraceptive methods or devices; or

(IV) the advocacy of sexual activity outside of marriage;

(B) that the adoption of instructional materials shall take place in an open and regular meeting of the local school board for which prior notice is given to parents and guardians of students attending schools in the district and an opportunity for them to express their views and opinions on the materials at the meeting;

(C) provision for an appeal and review process of the local school board's decision; and

(D) provision for a report by the local school board to the State Board of Education of the action taken and the materials adopted by the local school board under Subsections (1)(c)(ii)(B) and (1)(c)(iii).

(2) (a) Instruction in the courses described in Subsection (1) shall be consistent and systematic in grades eight through 12.

(b) At the request of the board, the Department of Health shall cooperate with the board in developing programs to provide instruction in those areas.

(3) (a) The board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent or legal guardian to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(4) (a) In keeping with the requirements of Section 53A-13-109, and because

school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official capacities if:

(i) they knew or should have known that their action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) Neither the State Office of Education nor local school districts may provide training of school employees or volunteers that supports or encourages criminal conduct.

(d) The State Board of Education shall adopt rules implementing this section.

(e) Nothing in this section limits the ability or authority of the State Board of Education and local school boards to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(5) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(6) (a) Local school boards and their employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) Each school district shall provide appropriate inservice training for its teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and 53A-13-302 and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the inservice training.

(c) The written materials shall also be made available to classified employees, students, and parents and guardians of students.

(d) In order to assist school districts in providing the inservice training required under Subsection (6)(b), the State Board of Education shall as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (6)(b) to develop and disseminate model teacher inservice programs which districts may use to train the individuals referred to in Subsection (6)(b) to effectively teach the values and qualities of character referenced in that subsection.

(e) In accordance with the provisions of Subsection (4)(c), inservice training may not support or encourage criminal conduct.

(7) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Amended by Chapter 196, 2004 General Session

53A-13-101.1. Maintaining constitutional freedom in the public schools.

(1) Any instructional activity, performance, or display which includes examination of or presentations about religion, political or religious thought or expression, or the influence thereof on music, art, literature, law, politics, history, or any other element of the curriculum, including the comparative study of religions, which is designed to achieve secular educational objectives included within the context of a course or activity and conducted in accordance with applicable rules of the state and local boards of education, may be undertaken in the public schools.

(2) No aspect of cultural heritage, political theory, moral theory, or societal value shall be included within or excluded from public school curricula for the primary reason that it affirms, ignores, or denies religious belief, religious doctrine, a religious sect, or the existence of a spiritual realm or supreme being.

(3) Public schools may not sponsor prayer or religious devotionals.

(4) School officials and employees may not use their positions to endorse, promote, or disparage a particular religious, denominational, sectarian, agnostic, or atheistic belief or viewpoint.

Enacted by Chapter 95, 1993 General Session

53A-13-101.2. Waivers of participation.

(1) If a parent with legal custody or other legal guardian of a student, or a secondary student, determines that the student's participation in a portion of the curriculum or in an activity would require the student to affirm or deny a religious belief or right of conscience, or engage or refrain from engaging in a practice forbidden or required in the exercise of a religious right or right of conscience, the parent, guardian, or student may request:

(a) a waiver of the requirement to participate; or

(b) a reasonable alternative that requires reasonably equivalent performance by the student of the secular objectives of the curriculum or activity in question.

(2) The school shall promptly notify a student's parent or guardian if the student makes a request under Subsection (1).

(3) If a request is made under Subsection (1), the school shall:

(a) waive the participation requirement;

(b) provide a reasonable alternative to the requirement; or

(c) notify the requesting party that participation is required.

(4) The school shall ensure that the provisions of Subsection 53A-13-101.3(3) are met in connection with any required participation under Subsection (3)(c).

(5) A student's academic or citizenship performance may not be penalized by school officials for the exercise of a religious right or right of conscience in accordance with the provisions of this section.

Amended by Chapter 114, 2007 General Session

53A-13-101.3. Expressions of belief -- Discretionary time.

(1) Expression of personal beliefs by a student participating in school-directed curricula or activities may not be prohibited or penalized unless the expression unreasonably interferes with order or discipline, threatens the well-being of persons or

property, or violates concepts of civility or propriety appropriate to a school setting.

(2) (a) As used in this section, "discretionary time" means noninstructional time during which a student is free to pursue personal interests.

(b) Free exercise of voluntary religious practice or freedom of speech by students during discretionary time shall not be denied unless the conduct unreasonably interferes with the ability of school officials to maintain order and discipline, unreasonably endangers persons or property, or violates concepts of civility or propriety appropriate to a school setting.

(3) Any limitation under Sections 53A-13-101.2 and 53A-13-101.3 on student expression, practice, or conduct shall be by the least restrictive means necessary to satisfy the school's interests as stated in those sections, or to satisfy another specifically identified compelling governmental interest.

Enacted by Chapter 95, 1993 General Session

53A-13-101.4. Instruction in American history and government -- Study and posting of American heritage documents.

(1) The Legislature recognizes that a proper understanding of American history and government is essential to good citizenship, and that the public schools are the primary public institutions charged with responsibility for assisting children and youth in gaining that understanding.

(2) (a) The State Board of Education and local school boards shall periodically review school curricula and activities to ensure that effective instruction in American history and government is taking place in the public schools.

(b) The boards shall solicit public input as part of the review process.

(c) Instruction in American history and government shall include a study of:

(i) forms of government, such as a republic, a pure democracy, a monarchy, and an oligarchy;

(ii) political philosophies and economic systems, such as socialism, individualism, and free market capitalism; and

(iii) the United States' form of government, a compound constitutional republic.

(3) School curricula and activities shall include a thorough study of historical documents such as:

(a) the Declaration of Independence;

(b) the United States Constitution;

(c) the national motto;

(d) the pledge of allegiance;

(e) the national anthem;

(f) the Mayflower Compact;

(g) the writings, speeches, documents, and proclamations of the Founders and the Presidents of the United States;

(h) organic documents from the pre-Colonial, Colonial, Revolutionary, Federalist, and post Federalist eras;

(i) United States Supreme Court decisions;

(j) Acts of the United States Congress, including the published text of the Congressional Record; and

(k) United States treaties.

(4) To increase student understanding of, and familiarity with, American historical documents, public schools may display historically important excerpts from, or copies of, those documents in school classrooms and common areas as appropriate.

(5) There shall be no content-based censorship of American history and heritage documents referred to in this section due to their religious or cultural nature.

(6) Public schools shall display "In God we trust," which is declared in 36 U.S.C. 302 to be the national motto of the United States, in one or more prominent places within each school building.

Amended by Chapter 298, 2011 General Session

53A-13-101.5. Teaching of American sign language.

(1) The Legislature recognizes that American sign language is a fully developed, autonomous, natural language with distinct grammar, syntax, and art forms.

(2) American sign language shall be accorded equal status with other linguistic systems in the state's public and higher education systems.

(3) The State Board of Education, in consultation with the state's school districts and members of the deaf and hard of hearing community, shall develop and implement policies and procedures for the teaching of American sign language in the state's public education system at least at the middle school or high school level.

(4) A student may count credit received for completion of a course in American sign language at the middle school or high school level towards the satisfaction of a foreign language requirement in the public education system under rules made by the State Board of Education.

(5) The State Board of Regents, in consultation with the state's public institutions of higher education and members of the state's deaf and hard of hearing community, shall develop and implement policies and procedures for offering instruction in American sign language in the state's system of higher education consistent with the master plan for higher education under Section 53B-6-101.

(6) The Joint Liaison Committee, in consultation with members of the state's deaf and hard of hearing community, shall review any policies and procedures developed under this section and make recommendations to either or both boards regarding the policies.

Amended by Chapter 297, 1998 General Session

53A-13-101.6. Instruction on the flag of the United States of America.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall provide by rule for a program of instruction within the public schools relating to the flag of the United States.

(2) The instruction shall include the history of the flag, etiquette, customs pertaining to the display and use of the flag, and other patriotic exercises as provided by 4 U.S.C. Secs. 1 to 10.

(3) (a) The pledge of allegiance to the flag shall be recited once at the beginning of each day in each public school classroom in the state, led by a student in the

classroom, as assigned by the classroom teacher on a rotating basis.

(b) Each student shall be informed by posting a notice in a conspicuous place that the student has the right not to participate in reciting the pledge.

(c) A student shall be excused from reciting the pledge upon written request from the student's parent or legal guardian.

(d) (i) At least once a year students shall be instructed that:

(A) participation in the pledge of allegiance is voluntary and not compulsory; and

(B) not only is it acceptable for someone to choose not to participate in the pledge of allegiance for religious or other reasons, but students should show respect for any student who chooses not to participate.

(ii) A public school teacher shall strive to maintain an atmosphere among students in the classroom that is consistent with the principles described in Subsection (3)(d)(i).

Amended by Chapter 426, 2012 General Session

53A-13-102. Instruction on the harmful effects of alcohol, tobacco, and controlled substances -- Rulemaking authority -- Assistance from the Division of Substance Abuse and Mental Health.

(1) The State Board of Education shall adopt rules providing for instruction at each grade level on the harmful effects of alcohol, tobacco, and controlled substances upon the human body and society. The rules shall require but are not limited to instruction on the following:

(a) teaching of skills needed to evaluate advertisements for, and media portrayal of, alcohol, tobacco, and controlled substances;

(b) directing students towards healthy and productive alternatives to the use of alcohol, tobacco, and controlled substances; and

(c) discouraging the use of alcohol, tobacco, and controlled substances.

(2) At the request of the board, the Division of Substance Abuse and Mental Health shall cooperate with the board in developing programs to provide this instruction.

(3) The board shall participate in efforts to enhance communication among community organizations and state agencies, and shall cooperate with those entities in efforts which are compatible with the purposes of this section.

Amended by Chapter 8, 2002 Special Session 5

53A-13-103. Eye protective devices for industrial education, physics laboratory, and chemistry laboratory activities.

(1) Any individual who participates in any of the following activities in public or private schools that may endanger his vision shall wear quality eye protective devices:

(a) industrial education activities that involve:

(i) hot molten metals;

(ii) the operation of equipment that could throw particles of foreign matter into the eyes;

(iii) heat treating, tempering, or kiln firing of any industrial materials;

(iv) gas or electric arc welding; or

(v) caustic or explosive material;
(b) chemistry or physics laboratories when using caustic or explosive chemicals, and hot liquids and solids.

(2) "Quality eye protective devices" means devices that meet the standards of the American Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, promulgated by the American Standards Association, Inc.

(3) (a) The local school board shall furnish these protective devices to individuals involved in these activities.

(b) The board may sell these protective devices at cost or rent or loan them to individuals involved in these activities.

Enacted by Chapter 2, 1988 General Session

53A-13-104. Remediation programs for secondary students.

(1) For purposes of this section:

(a) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

(b) "Secondary school student":

(i) means a student enrolled in a secondary school; and

(ii) includes a student in grade 6 if the student attends a secondary school.

(2) A school district or charter school shall implement programs for secondary school students to attain the competency levels and graduation requirements established by the State Board of Education.

(3) (a) A school district or charter school shall establish remediation programs for secondary school students who do not meet competency levels in English, mathematics, science, or social studies.

(b) Participation in the programs is mandatory for secondary school students who fail to meet the competency levels based on classroom performance.

(4) Secondary school students who require remediation under this section may not be advanced to the following class in subject sequences until they meet the required competency level for the subject or complete the required remediation program, except that a school district or charter school may allow secondary school students requiring remediation who would otherwise be scheduled to enter their first year of high school to complete their remediation program during that first year.

(5) (a) Remediation programs provided under this section should not be unnecessarily lengthy or repetitive.

(b) A secondary school student need not repeat an entire class if remediation can reasonably be achieved through other means.

(6) A school district or charter school may charge secondary school students a fee to participate in the remediation programs.

Amended by Chapter 377, 2013 General Session

53A-13-106. Instruction in firearm safety -- Purpose -- School districts to implement volunteer education classes -- Parental consent exception.

(1) (a) School districts may permit the use of district approved volunteers or

school district teachers for instruction of firearm safety education classes for students.

(b) The volunteers or school district teachers instructing the firearm safety education class are encouraged to utilize donated materials prepared by firearms training and education organizations or to develop their own materials within existing budgets.

(2) The purpose of firearm safety education is to:

(a) develop the knowledge, habits, skills, and attitudes necessary for the safe handling of firearms; and

(b) help students avoid firearm injuries.

(3) School districts may offer firearm safety instruction to students in grades kindergarten through four to teach them that in order to avoid injury when they find a firearm they should:

(a) not touch it;

(b) tell an adult about finding the firearm and its location; and

(c) be able to share the instruction provided in Subsections (3)(a) and (b) with any other minors who are with them when they find a firearm.

(4) As used in this chapter, "firearm" means any firearm as defined in Section 76-10-501.

(5) The State Board of Education shall make rules promulgated pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(a) use of certified volunteers for instruction of firearm safety education classes in the public schools;

(b) use of public school classrooms or auditoriums for these classes;

(c) school district review of donated materials before their use; and

(d) proof of certification as a firearm safety instructor.

(6) (a) A local school board may require every student in grades kindergarten through six to participate in a firearm safety education class offered within the public schools under this section.

(b) A student may be exempted from participation upon notification to the local school by the student's parent or legal guardian that the parent or legal guardian wants the student exempted from the class in its entirety or any portion specified.

(7) If a student is exempted under Subsection (6), the school may provide other activities during the period of time in which the student would otherwise be participating in the program.

(8) The school districts may permit the Division of Wildlife Resources, local law enforcement agencies, peace officers as defined in Title 53, Chapter 13, Peace Officer Classifications, certified instructors, certified hunter education instructors, and other certified firearms safety instructors, as provided by rules adopted under Subsection (5)(a) to teach the firearm safety education class on a voluntary basis.

(9) The school district is encouraged to maximize the use of existing firearm safety educational materials which are available at minimal or no cost and the use of certified volunteer instructors.

(10) The school district may review the class on a regular basis for its effectiveness.

Amended by Chapter 382, 2008 General Session

53A-13-107. Adoption information.

(1) For a school year beginning with or after the 2012-13 school year, a local school board shall ensure that an annual presentation on adoption is given to its secondary school students in grades 7-12, so that each student receives the presentation at least once during grades 7-9 and at least once during grades 10-12.

(2) The presentation shall be made by a licensed teacher as part of the health education core.

Amended by Chapter 305, 2010 General Session

53A-13-108. Curriculum and graduation requirements.

(1) The State Board of Education shall establish rigorous curriculum and graduation requirements under Section 53A-1-402 for grades 9 through 12 that:

- (a) are consistent with state law and federal regulations; and
- (b) beginning no later than with the graduating class of 2008:
 - (i) use competency-based standards and assessments;
 - (ii) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; and
 - (iii) increase graduation requirements in language arts, mathematics, and science to exceed the existing credit requirements of 3.0 units in language arts, 2.0 units in mathematics, and 2.0 units in science.

(2) The State Board of Education shall also establish competency-based standards and assessments for elective courses.

(3) On or before July 1, 2014, the State Board of Education shall adopt revised course standards and objectives for the course of instruction in general financial literacy described in Subsection (1)(b) that address:

- (a) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid (FAFSA); and
- (b) technology that relates to banking, savings, and financial products.

(4) The State Board of Education shall administer the course of instruction in general financial literacy described in Subsection (1)(b) in the same manner as other core curriculum courses for grades 9 through 12 are administered.

Amended by Chapter 70, 2014 General Session

53A-13-108.5. Acceptance of credits and grades awarded by accredited schools.

(1) (a) A public school shall accept credits and grades awarded to a student by a school accredited or approved by the State Board of Education or accredited or recognized by the Northwest Association of Accredited Schools as issued by the school, without alterations.

(b) Credits awarded for a core curriculum course shall be applied to fulfilling core curriculum requirements.

(2) Subsection (1) applies to credits awarded to a student who:

- (a) transfers to a public school; or

(b) while enrolled in the public school, takes courses offered by another public or private school.

(3) Subsection (1) applies to:

(a) traditional classes in which an instructor is present in the classroom and the student is required to attend the class for a particular length of time;

(b) open entry/open exit classes in which the student has the flexibility to begin or end study at any time, progress through course material at his own pace, and demonstrate competency when knowledge and skills have been mastered;

(c) courses offered over the Internet; or

(d) distance learning courses.

Enacted by Chapter 227, 2006 General Session

53A-13-109. Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.

(1) As used in this section:

(a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

(b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

(c) "Values" means time-established principles or standards of worth.

(2) The Legislature recognizes that:

(a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;

(b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;

(c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;

(d) the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;

(e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and

(f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.

(3) Through an integrated curriculum, students shall be taught in connection with regular school work:

(a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

(6) To assist the Commission on Civic and Character Education in fulfilling the commission's duties under Section 67-1a-11, by December 30 of each year, each school district and the State Charter School Board shall submit to the lieutenant governor and the commission a report summarizing how civic and character education are achieved in the school district or charter schools through an integrated school curriculum and in the regular course of school work as provided in this section.

(7) Each year, the State Board of Education shall report to the Education Interim Committee, on or before the October meeting, the methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens through an integrated curriculum taught in connection with regular school work as required in this section.

Amended by Chapter 387, 2014 General Session

53A-13-110. Financial and economic literacy education.

(1) As used in this section:

(a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).

(b) "Financial and economic literacy concepts" include concepts related to the following topics:

(i) basic budgeting;

(ii) saving and financial investments;

(iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;

(iv) career management, including earning an income;

- (v) rights and responsibilities of renting or buying a home;
- (vi) retirement planning;
- (vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;
- (viii) insurance;
- (ix) federal, state, and local taxes;
- (x) charitable giving;
- (xi) online commerce;
- (xii) identity fraud and theft;
- (xiii) negative financial consequences of gambling;
- (xiv) bankruptcy;
- (xv) free markets and prices;
- (xvi) supply and demand;
- (xvii) monetary and fiscal policy;
- (xviii) effective business plan creation, including using economic analysis in creating a plan;
- (xix) scarcity and choices;
- (xx) opportunity cost and tradeoffs;
- (xxi) productivity;
- (xxii) entrepreneurship; and
- (xxiii) economic reasoning.

(c) "Financial and economic literacy passport" means a document that tracks mastery of financial and economic literacy concepts and completion of financial and economic activities in kindergarten through grade 12.

(d) "General financial literacy course" means the course of instruction described in Section 53A-13-108.

(2) The State Board of Education shall:

(a) in cooperation with interested private and nonprofit entities:

(i) develop a financial and economic literacy passport that students may elect to complete;

(ii) develop methods of encouraging parent and educator involvement in completion of the financial and economic literacy passport; and

(iii) develop and implement appropriate recognition and incentives for students who complete the financial and economic literacy passport, including:

(A) a financial and economic literacy endorsement on the student's diploma of graduation;

(B) a specific designation on the student's official transcript; and

(C) any incentives offered by community partners;

(b) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:

(i) coordinating financial and economic literacy instruction with existing instruction in other core curriculum areas such as mathematics and social studies;

(ii) using curriculum mapping;

(iii) creating training materials and staff development programs that:

(A) highlight areas of potential coordination between financial and economic literacy education and other core curriculum concepts; and

(B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core curriculum concepts; and

(iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;

(c) work with interested public, private, and nonprofit entities to:

(i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;

(ii) coordinate school use of existing financial and economic literacy education resources;

(iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;

(iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and

(v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core curriculum courses;

(e) (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;

(ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and

(iii) develop a plan, through the state superintendent of public instruction, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:

(A) an analysis of assessment results by standard; and

(B) average scores statewide and by school district and school;

(f) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy to teachers, including:

(i) a statewide learning community for financial and economic literacy;

(ii) summer workshops; and

(iii) online videos of experts in the field of financial and economic literacy education; and

(g) implement a teacher endorsement in general financial literacy that includes course work in financial planning, credit and investing, consumer economics, personal budgeting, and family economics.

(3) A public school shall provide the following to the parents or guardian of a kindergarten student during kindergarten enrollment:

(a) a financial and economic literacy passport; and

(b) information about higher education savings options, including information about opening a Utah Educational Savings Plan account.

(4) (a) The State Board of Education shall establish a task force to study and make recommendations to the board on how to improve financial and economic literacy education in the public school system.

(b) The task force membership shall include representatives of:

(i) the State Board of Education;
(ii) school districts and charter schools; and
(iii) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

(c) In 2013, the task force shall:

(i) review and recommend modifications to the course standards and objectives of the general financial literacy course described in Section 53A-13-108 to ensure the course standards and objectives reflect current and relevant content consistent with the financial and economic literacy concepts listed in Subsection (1)(b);

(ii) study the development of an online assessment of students' competency in financial and economic literacy that may be used to:

(A) measure student learning growth and proficiency in financial and economic literacy; and

(B) assess the effectiveness of instruction in financial and economic literacy;

(iii) consider the development of a rigorous, online only, course to fulfill the general financial literacy curriculum and graduation requirements specified in Section 53A-13-108;

(iv) identify opportunities for teaching financial and economic literacy through an integrated school curriculum and in the regular course of school work;

(v) study and make recommendations for educator license endorsements for teachers of financial and economic literacy;

(vi) identify efficient and cost-effective methods of delivering professional development in financial and economic literacy content and instructional methods; and

(vii) study how financial and economic literacy education may be enhanced through community partnerships.

(d) The task force shall reconvene every three years to review and recommend adjustments to the course standards and objectives of the general financial literacy course.

(e) The State Board of Education shall make a report to the Education Interim Committee no later than the committee's November 2013 meeting summarizing the findings and recommendations of the task force and actions taken by the board in response to the task force's findings and recommendations.

Amended by Chapter 70, 2014 General Session

53A-13-111. Educational program on the use of information technology.

(1) The State Board of Education shall provide for an educational program on the use of information technology, which shall be offered by high schools.

(2) An educational program on the use of information technology shall:

(a) provide instruction on skills and competencies essential for the workplace and requested by employers;

- (b) include the following components:
 - (i) a curriculum;
 - (ii) online access to the curriculum;
 - (iii) instructional software for classroom and student use;
 - (iv) certification of skills and competencies most frequently requested by employers;
 - (v) professional development for teachers; and
 - (vi) deployment and program support, including integration with existing curriculum standards; and
- (c) be made available to high school students, faculty, and staff.

Enacted by Chapter 181, 2012 General Session

53A-13-112. Child sexual abuse prevention.

(1) As used in this section, "school personnel" is as defined in Section 53A-11-605.

(2) On or before July 1, 2015, the State Board of Education shall approve, in partnership with the Department of Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3) (a) Beginning in the 2016-17 school year, a school district or charter school shall provide training and instruction on child sexual abuse prevention and awareness to:

- (i) school personnel in elementary and secondary schools on:
 - (A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner; and
 - (B) the mandatory reporting requirements described in Sections 53A-6-502 and 62A-4a-403; and
- (ii) parents or guardians of elementary school students on:
 - (A) recognizing warning signs of a child who is being sexually abused; and
 - (B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child.

(b) A school district or charter school shall use the instructional materials approved by the State Board of Education under Subsection (2) to provide the training and instruction to school personnel and parents or guardians under Subsection (3)(a).

(4) (a) In accordance with Subsections (4)(b) and (5), a school district or charter school may provide instruction on child sexual abuse prevention and awareness to elementary school students using age-appropriate curriculum.

(b) Beginning in the 2016-17 school year, a school district or charter school that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the board under Subsection (2) to provide the instruction.

(5) (a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent or guardian of the student is:

- (i) notified in advance of the:
 - (A) instruction and the content of the instruction; and
 - (B) parent or guardian's right to have the student excused from the instruction;
- (ii) given an opportunity to review the instructional materials before the

instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent or guardian of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections 53A-13-301 and 53A-13-302.

(6) A school district or charter school may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

(7) (a) The State Board of Education shall report to the Education Interim Committee on the progress of the provisions of this section by the committee's November 2017 meeting.

(b) Upon request of the State Board of Education, a school district or charter school shall provide to the State Board of Education information that is necessary for the report required under Subsection (7)(a).

Enacted by Chapter 342, 2014 General Session

53A-13-201. Driver education established by school districts.

(1) As used in this part:

(a) "Driver education" includes classroom instruction and driving and observation in a dual-controlled motor vehicle.

(b) "Driving" or "behind-the-wheel driving" means operating a dual-controlled motor vehicle under the supervision of a certified instructor.

(2) (a) Local school districts may establish and maintain driver education for pupils.

(b) A school or local school district that provides driver education shall provide an opportunity for each pupil enrolled in that school or local school district to take the written test when the pupil is 15 years and nine months of age.

(c) Notwithstanding the provisions of Subsection (2)(b), a school or local school district that provides driver education may provide an opportunity for each pupil enrolled in that school or school district to take the written test when the pupil is 15 years of age.

(3) The purpose of driver education is to help develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules for driver education offered in the public schools.

(5) The rules under Subsection (4) shall:

(a) require at least one hour of classroom training on the subject of railroad crossing safety for each driver education pupil; and

(b) establish minimum standards for approved driving ranges under Section 53-3-505.5.

(6) The requirements of Section 53-3-505.5 apply to any behind-the-wheel driving training provided as part of driver education offered under this part and used to satisfy the driver training requirement under Section 53-3-204.

Amended by Chapter 382, 2008 General Session

53A-13-202. Driver education funding -- Reimbursement of school districts for driver education class expenses -- Limitations -- Excess funds -- Student fees.

(1) (a) Except as provided in Subsection (1)(b), a school district that provides driver education shall fund the program solely through:

(i) funds provided from the Automobile Driver Education Tax Account in the Uniform School Fund as created under Section 41-1a-1205; and

(ii) student fees collected by each school.

(b) In determining the cost of driver education, a school district may exclude:

(i) the full-time equivalent cost of a teacher for a driver education class taught during regular school hours; and

(ii) classroom space and classroom maintenance.

(c) A school district may not use any additional school funds beyond those allowed under Subsection (1)(b) to subsidize driver education.

(2) (a) The state superintendent of public instruction shall, prior to September 2nd following the school year during which it was expended, or may at earlier intervals during that school year, reimburse each school district that applied for reimbursement in accordance with this section.

(b) A school district that maintains driver education classes that conform to this part and the rules prescribed by the board may apply for reimbursement for the actual cost of providing the behind-the-wheel and observation training incidental to those classes.

(3) Under the state board's supervision for driver education, a school district may:

(a) employ personnel who are not licensed by the board under Section 53A-6-104; or

(b) contract with private parties or agencies licensed under Section 53-3-504 for the behind-the-wheel phase of the driver education program.

(4) The reimbursement amount shall be paid out of the Automobile Driver Education Tax Account in the Uniform School Fund and may not exceed:

(a) \$100 per student who has completed driver education during the school year;

(b) \$30 per student who has only completed the classroom portion in the school or through the electronic high school during the school year; or

(c) \$70 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.

(5) If the amount of money in the account at the end of a school year is less than the total of the reimbursable costs, the state superintendent of public instruction shall allocate the money to each school district in the same proportion that its reimbursable costs bear to the total reimbursable costs of all school districts.

(6) If the amount of money in the account at the end of any school year is more than the total of the reimbursement costs provided under Subsection (4), the superintendent may allocate the excess funds to school districts:

(a) to reimburse each school district that applies for reimbursement of the cost of a fee waived under Section 53A-12-103 for driver education; and

(b) to aid in the procurement of equipment and facilities which reduce the cost of behind-the-wheel instruction.

(7) A local school board shall establish the student fee for driver education for the school district. Student fees shall be reasonably associated with the costs of driver education that are not otherwise covered by reimbursements and allocations made under this section.

Amended by Chapter 23, 2003 General Session

53A-13-203. Enrollment of private school pupils.

(1) A school district maintaining driver education classes shall allow pupils enrolled in grades nine to 12 of regularly established private schools located within the school district to enroll in the most accessible public school in the school district to receive driver education.

(2) Enrollment is on the same terms and conditions as applies to students in public schools within the district, as such terms and conditions relate to the driver education classes only.

Enacted by Chapter 2, 1988 General Session

53A-13-204. Reports as to costs of driver training programs.

A local school board seeking reimbursement shall, at the end of each school year and at other times as designated by the State Board of Education, report the following to the state superintendent of public instruction:

- (1) the costs of providing driver education including a separate accounting for:
 - (a) course work; and
 - (b) behind-the-wheel and observation training to students;
- (2) the costs of fees waived under Section 53A-12-103 for driver education including a separate accounting for:
 - (a) course work; and
 - (b) behind-the-wheel and observation training to students;
- (3) the number of students who completed driver education including a separate accounting for:
 - (a) course work; and
 - (b) behind-the-wheel and observation training to students;
- (4) whether or not a passing grade was received; and
- (5) any other information the State Board of Education may require for the purpose of administering this program.

Amended by Chapter 23, 2003 General Session

53A-13-205. Promoting the establishment and maintenance of classes -- Payment of costs.

(1) The superintendent of public instruction shall promote the establishment and maintenance of driver education classes in school districts under rules adopted by the State Board of Education.

(2) The state board may employ personnel and sponsor experimental programs considered necessary to give full effect to this program.

(3) The costs of implementing this section shall be paid from the legislative appropriation to the board made from the Automobile Driver Education Tax Account in the Uniform School Fund.

Enacted by Chapter 2, 1988 General Session

53A-13-206. Appropriations from Automobile Driver Education Tax Account.

There is appropriated to the State Board of Education from the Automobile Driver Education Tax Account, annually, all money in the account, in excess of the expense of administering the collection of the tax, for use and distribution in the administration and maintenance of driver education classes and programs with respect to classes offered in the school district and the establishment of experimental programs, including the purchasing of equipment, by the board.

Enacted by Chapter 2, 1988 General Session

53A-13-208. Driver education teachers certified as license examiners.

(1) The Driver License Division of the Department of Public Safety and the State Board of Education through the State Office of Education shall establish procedures and standards to certify teachers of driver education classes under this part to administer written and driving tests.

(2) The division is the certifying authority.

(3) (a) A teacher certified under this section shall give written and driving tests designed for driver education classes authorized under this part.

(b) The Driver License Division shall, in conjunction with the State Office of Education, establish minimal standards for the driver education class tests that are at least as difficult as those required to receive a class D operator's license under Title 53, Chapter 3, Uniform Drivers License Act.

(c) A student who passes the written test but fails the driving test given by a teacher certified under this section may apply for a learner permit or class D operator's license under Title 53, Chapter 3, Part 2, Driver Licensing Act, and complete the driving test at a Driver License Division office.

(4) A student shall have a learner permit issued by the Driver License Division under Section 53-3-210.5 in the student's immediate possession at all times when operating a motor vehicle under this section.

(5) A student who successfully passes the tests given by a certified driver education teacher under this section satisfies the written and driving parts of the test required for a learner permit or class D operator's license.

(6) The Driver License Division and the State Board of Education shall establish procedures to enable school districts to administer or process any tests for students to receive a learner permit or class D operator's license.

(7) The division and board shall establish the standards and procedures required under this section by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 382, 2008 General Session

53A-13-209. Programs authorized -- Minimum standards.

- (1) Local school districts may:
 - (a) allow students to complete the classroom training portion of driver education through the following programs:
 - (i) home study; or
 - (ii) the electronic high school;
 - (b) provide each parent with driver education instructional materials to assist in parent involvement with driver education including behind-the-wheel driving materials;
 - (c) offer driver education outside of school hours in order to reduce the cost of providing driver education;
 - (d) offer driver education through community education programs;
 - (e) offer the classroom portion of driver education in the public schools and allow the student to complete the behind-the-wheel portion with a private provider:
 - (i) licensed under Section 53-3-504; and
 - (ii) not associated with the school or under contract with the school under Subsection 53A-13-202(3); or
 - (f) any combination of Subsections (1)(a) through (e).
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall establish minimum standards for the school-related programs under Subsection (1).

Amended by Chapter 382, 2008 General Session

53A-13-301. Application of state and federal law to the administration and operation of public schools -- Student information confidentiality standards -- Local school board and charter school governing board policies.

- (1) An employee, student aide, volunteer, or other agent of the state's public education system shall protect the privacy of students, their parents, and their families, and support parental involvement in the education of their children through compliance with the protections provided for family and student privacy under Section 53A-13-302 and the Federal Family Educational Rights and Privacy Act and related provisions under 20 U.S.C. 1232g and 1232h, in the administration and operation of all public school programs, regardless of the source of funding.
- (2) A local school board or charter school governing board shall enact policies governing the protection of family and student privacy as required by this section.
- (3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules to establish standards for public education employees, student aides, and volunteers in public schools regarding the confidentiality of student information and student records.
 - (b) The rules described in Subsection (3)(a) shall provide that a local school board or charter school governing board may adopt policies related to public school student confidentiality to address the specific needs or priorities of the school district or charter school.
- (4) The State Board of Education shall:

(a) develop resource materials for purposes of training employees, student aides, and volunteers of a school district or charter school regarding the confidentiality of student information and student records; and

(b) provide the materials described in Subsection (4)(a) to each school district and charter school.

Amended by Chapter 401, 2011 General Session

53A-13-302. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.

(1) Except as provided in Subsection (7), Section 53A-11a-203, and Section 53A-15-1301, policies adopted by a school district or charter school under Section 53A-13-301 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent or legal guardian, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

(a) political affiliations or, except as provided under Section 53A-13-101.1 or rules of the State Board of Education, political philosophies;

(b) mental or psychological problems;

(c) sexual behavior, orientation, or attitudes;

(d) illegal, anti-social, self-incriminating, or demeaning behavior;

(e) critical appraisals of individuals with whom the student or family member has close family relationships;

(f) religious affiliations or beliefs;

(g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and

(h) income, except as required by law.

(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) Except as provided in Subsection (7), Section 53A-11a-203, and Section 53A-15-1301, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent or legal guardian has been obtained.

(4) Written parental consent is valid only if a parent or legal guardian has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

(a) records or information, including information about relationships, that may be examined or requested;

(b) the means by which the records or information shall be examined or reviewed;

(c) the means by which the information is to be obtained;

(d) the purposes for which the records or information are needed;

(e) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and

(f) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.

(5) (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be given at least two weeks before information protected under this section is sought.

(b) Following disclosure, a parent or guardian may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent or legal guardian and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent or guardian terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

(6) (a) This section does not limit the ability of a student under Section 53A-13-101.3 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

(b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent or guardian without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent or guardian of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of his parent or guardian, or if that notification is otherwise prohibited by state or federal law.

(7) (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

(i) referring the student to appropriate prevention services; and

(ii) informing the student's parent or legal guardian.

(b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

(8) Local school boards and charter school governing boards shall provide inservice for teachers and administrators on the implementation of this section.

(9) The board shall provide procedures for disciplinary action for violations of this section.

Amended by Chapter 214, 2014 General Session

53A-14-101. Creation of commission -- Powers -- Payment of expenses.

(1) The State Board of Education shall appoint a State Instructional Materials Commission consisting of:

(a) the state superintendent of public instruction or the superintendent's designee;

(b) a school district superintendent;

(c) a secondary school principal;

(d) an elementary school principal;

(e) a secondary school teacher;

(f) an elementary school teacher;

(g) five persons not employed in public education; and

(h) a dean of a school of education of a state college or university.

(2) The commission shall evaluate instructional materials for recommendation by the board.

(3) As used in this chapter, "instructional materials" means textbooks or materials used as, or in place, of textbooks and which may be used within the state curriculum framework for courses of study by students in public schools to include:

(a) textbooks;

(b) workbooks;

(c) computer software;

(d) laserdiscs or videodiscs; and

(e) multiple forms of communications media.

(4) Members shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties shall be paid out of money appropriated to the board.

Amended by Chapter 299, 2002 General Session

53A-14-102. Commission's evaluation of instructional materials -- Recommendation by the state board.

(1) Semi-annually after reviewing the evaluations of the commission, the board shall recommend instructional materials for use in the public schools.

(2) The standard period of time instructional materials shall remain on the list of recommended instructional materials shall be five years.

(3) Unsatisfactory instructional materials may be removed from the list of recommended instructional materials at any time within the period applicable to the instructional materials.

(4) Except as provided in Section 53A-13-101, each school shall have discretion to select instructional materials for use by the school. A school may select:

(a) instructional materials recommended by the board as provided in this section; or

(b) other instructional materials it considers appropriate to teach the core curriculum.

Amended by Chapter 299, 2002 General Session

53A-14-103. Meetings -- Notice.

(1) The commission shall meet at the call of the state superintendent of public instruction or the superintendent's designee.

(2) Notice of a meeting shall be given as required under Section 52-4-202.

Amended by Chapter 14, 2006 General Session

53A-14-104. Sealed proposals for instructional materials contracts -- Sample copies -- Price of instructional materials.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(2) A person seeking a contract to furnish instructional materials for use in the public schools shall submit a sealed proposal to the commission.

(3) Each proposal must:

(a) be accompanied by sample copies of the instructional materials to be reviewed; and

(b) include the wholesale price at which the publisher agrees to furnish the instructional materials to districts and schools during the approval period.

Amended by Chapter 84, 2001 General Session

53A-14-105. Awarding instructional materials contracts.

(1) The board shall award contracts for furnishing instructional materials.

(2) If a satisfactory proposal to furnish instructional materials is not received, a new request for proposals may be issued.

Amended by Chapter 84, 2001 General Session

53A-14-106. Illegal acts -- Misdemeanor.

It is a misdemeanor for a member of the commission or the board to receive money or other remuneration as an inducement for the recommendation or introduction of instructional materials into the schools.

Amended by Chapter 84, 2001 General Session

53A-14-107. Instructional materials alignment with core curriculum.

(1) For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:

(a) contracts with an independent party to evaluate and map the alignment of

the primary instructional materials with the core curriculum adopted under Section 53A-1-402;

(b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and

(c) pays the costs related to the requirements of this Subsection (1).

(2) The requirements under Subsection (1) may not be performed by:

(a) the State Board of Education;

(b) the superintendent of public instruction or the State Office of Education;

(c) the State Instructional Materials Commission appointed pursuant to Section 53A-14-101;

(d) a local school board or a school district; or

(e) the instructional materials creator or publisher.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish:

(a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and

(b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

Amended by Chapter 305, 2010 General Session

53A-15-101. Higher education courses in the public schools -- Cooperation between public and higher education -- Partial tuition -- Reporting.

(1) The State Board of Education in collaboration with the State Board of Regents shall implement:

(a) a curriculum program and delivery system which allows students the option to complete high school graduation requirements and prepares them to meet college admission requirements at the conclusion of the eleventh grade, but does not preclude a student involved in accelerated learning programs from graduating at an earlier time;

(b) a program of selected college credit courses in general and career and technical education made available in cooperation with the State Board of Regents, as resources allow, through concurrent enrollment with one or more of the state's institutions of higher education;

(c) a course of study for a student who decides to continue on through the twelfth grade that would allow the student to take courses necessary to graduate from high school, and at the student's option, to become better prepared for the world of work, or complete selected college level courses corresponding to the first and second year of course work at a university, college, or community college in the state system of higher education; and

(d) a program for advanced placement which permits students to earn high school credits while qualifying to take advanced placement examinations for college credit.

(2) The delivery system and curriculum program shall be designed and implemented to take full advantage of the most current available educational technology.

- (3) The State Board of Regents shall adopt rules to ensure the following:
- (a) early high school graduates who are academically prepared and meet college admission requirements may be enrolled in one of the state's institutions of higher education;
 - (b) college credit courses are taught in high school concurrent enrollment programs by college or university faculty or public school educators under the following conditions:
 - (i) to ensure that students are prepared for college level work, an appropriate assessment is given:
 - (A) prior to participation in mathematics and English courses; and
 - (B) in meeting prerequisites previously established for the same campus-based course by the sponsoring institution;
 - (ii) public school educators in concurrent enrollment programs must first be approved as adjunct faculty and supervised by a state institution of higher education;
 - (iii) teaching is done through live classroom instruction or telecommunications;
 - (iv) collaboration among institutions to provide opportunities for general education and high demand career and technical education concurrent enrollment courses to be offered statewide, including via technology;
 - (v) course content, procedures, and teaching materials in concurrent enrollment programs are approved by the appropriate department or program at an institution of higher education in order to ensure quality and comparability with courses offered on college and university campuses;
 - (vi) concurrent enrollment may not include high school courses that are typically offered in grades 9 or 10, except as provided under Subsection (3)(b)(viii);
 - (vii) students may only be charged fees or partial tuition in accordance with Subsections (9)(c) and (10); and
 - (viii) the provisions under Subsection (3)(b)(vi) do not apply to an early college high school; and
 - (c) college credits obtained under this section shall be accepted for transfer of credit purposes as if they had been obtained at any public institution of higher education within the state system.
- (4) (a) Concurrent enrollment courses shall be introductory-level general education, career and technical education, or pre-major college-level courses at a state institution of higher education leading toward a certificate or degree.
- (b) The State Board of Regents shall develop technology-intensive concurrent enrollment courses, designed as:
- (i) hybrid courses, having a blend of different learning activities available both in classrooms and online; or
 - (ii) courses delivered exclusively online.
- (c) The courses described in Subsection (4)(b) shall facilitate articulation, transfer of credit, and when possible, use open source materials available to all state institutions of higher education in order to reduce costs.
- (5) Except as provided in Subsection (6)(b), concurrent enrollment courses may be offered to high school students only by the state institution of higher education in the corresponding geographic service region, as designated by the State Board of Regents.
- (6) (a) A local school board or charter school governing board shall contact the

state institution of higher education in the corresponding geographical service region to provide a concurrent enrollment course, and the higher education institution shall respond to the request within 60 days after the day on which the board contacts the institution on whether the institution chooses to offer the requested course.

(b) (i) If the state institution of higher education in the corresponding service region chooses not to offer the concurrent enrollment course, another state institution of higher education may offer the concurrent enrollment course.

(ii) Courses delivered through technology are not subject to the corresponding geographic service region requirement in Subsection (5).

(7) College-level courses taught in the high school carry the same credit hour value as when taught on a college or university campus and apply toward graduation on the same basis as courses taught at an institution of higher education to which the credits are submitted.

(8) The State Board of Education shall provide students in the public schools with the option of accelerating their educational program and graduating at the conclusion of the eleventh grade.

(9) (a) The State Board of Education and State Board of Regents shall work in close cooperation in developing, implementing, and evaluating the program established under this section, including working together to effectively advise high school students on registering for concurrent enrollment courses, as described in Section 53B-1-109.

(b) (i) Each high school shall receive its proportional share of concurrent enrollment money appropriated or allocated pursuant to Section 53A-17a-120.5 based upon the hours of higher education course work undertaken by students at the school under Subsections (1)(b) and (1)(c) as compared to the state total.

(ii) School districts shall contract with institutions of higher education to provide the higher education services required under this section.

(c) Higher education tuition and fees may not be charged for participation in this program, except that each institution within the state's higher education system may charge:

(i) a one-time per student per institution admissions application fee for concurrent enrollment course credit offered by the institution; and

(ii) except as provided in Subsection (10), partial tuition of up to \$30 per credit hour for each concurrent enrollment course for which the student receives college credit, paid directly to the institution of higher education that offers the credit.

(d) Payment of the fee under Subsection (9)(c)(i) satisfies the general admissions application fee requirement for a full-time or part-time student at an institution so that no additional admissions application fee may be charged by the institution.

(10) (a) A state institution of higher education may only charge a concurrent enrollment student who qualifies for free or reduced price school lunch partial tuition of up to \$5 per credit hour for each concurrent enrollment course for which the student receives college credit.

(b) If a concurrent enrollment course is taught by a public school educator in a public school facility, a state institution of higher education may only charge up to \$10 per credit hour for the concurrent enrollment course for which the student receives college credit.

(c) If a concurrent enrollment course is taught through video conferencing, a state institution of higher education may only charge up to \$15 per credit hour for the concurrent enrollment course for which the student receives credit.

(11) The State Board of Regents shall annually report to the Legislature's Higher Education Appropriations Subcommittee on any partial tuition charged pursuant to Subsection (9)(c).

Amended by Chapter 75, 2013 General Session

53A-15-101.5. Concurrent enrollment instruction in Mandarin Chinese.

(1) (a) As used in this section, "category IV languages" means those languages designated the most difficult to learn by the Defense Language Institute as provided in training to members of the United States Military.

(b) The Legislature recognizes:

(i) the importance of students acquiring skills in foreign languages in order for them to successfully compete in a global society; and

(ii) that the acquisition of category IV languages, such as Mandarin Chinese, Arabic, Korean, and Japanese, by students in the state's public schools requires extended sequences of study to acquire useful proficiency in listening, speaking, reading, and writing.

(2) (a) As a component of the concurrent enrollment program authorized under Section 53A-15-101, the State Board of Education and the State Board of Regents, in consultation with the Utah Education and Telehealth Network, may develop and implement a concurrent enrollment course of study in the category IV language of Mandarin Chinese.

(b) The course shall be taught over the state's two-way interactive video conferencing system for video and audio, to high school juniors and seniors in the state's public education system.

(3) (a) The concurrent enrollment course in Mandarin Chinese authorized in Subsection (2) may use paraprofessionals in the classroom who:

(i) are fluent in Mandarin Chinese; and

(ii) can provide reinforcement and tutoring to students on days and at times when they are not receiving instruction under Subsection (2)(b).

(b) The State Board of Education, through the State Superintendent of Public Instruction, and professors who teach Chinese in the state system of higher education shall jointly ensure that the paraprofessionals are fluent in Mandarin Chinese.

(4) The State Board of Education and the State Board of Regents shall make joint rules on the concurrent enrollment course authorized under this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to include:

(a) notification to school districts on the times and places of the course offerings; and

(b) instructional materials for the course.

(5) Students who successfully complete the concurrent enrollment course offered under this section shall receive tuition reimbursement for a sequential Mandarin Chinese course they successfully complete at an institution within the state system of higher education under rules made by the State Board of Regents in accordance with

Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The State Board of Education and the State Board of Regents shall jointly track and monitor the Mandarin Chinese language program and may expand the program to include other category IV languages, subject to student demand for the courses and available resources.

Amended by Chapter 63, 2014 General Session

53A-15-102. Early graduation incentives -- Incentive to school district -- Partial tuition scholarship for student -- Payments.

(1) Any secondary public school student who has completed all required courses or demonstrated mastery of required skills and competencies may, with the approval of the student, the student's parent or guardian, and an authorized local school official, graduate at any time.

(2) Each public high school shall receive an amount equal to 1/2 of the scholarship awarded to each student who graduates from the school at or prior to the conclusion of the eleventh grade, or a proportionately lesser amount for any student who graduates after the conclusion of the eleventh grade but prior to the conclusion of the twelfth grade.

(3) (a) A student who graduates from high school at or prior to the conclusion of the eleventh grade shall receive a centennial scholarship in the lesser amount of full tuition for one year or \$1,000 to be used for full time enrollment at a Utah public college, university, community college, applied technology center, or any other institution in the state of Utah, accredited by the Northwest Association of Schools and Colleges that offers postsecondary courses of the student's choice upon verification that the student has registered at the institution during the fiscal year following graduation from high school.

(b) In the case of a student who graduates after the conclusion of the eleventh grade but prior to the conclusion of the twelfth grade, the student shall receive a centennial scholarship of a proportionately lesser amount.

(4) (a) The payments authorized in Subsections (2) and (3)(a) shall be made during the fiscal year that follows the student's graduation.

(b) The payments authorized in Subsection (3)(b) may be made during the fiscal year in which the student graduates or the fiscal year following the student's graduation.

(5) (a) The State Board of Education shall administer the payment program authorized in Subsections (2), (3), and (4).

(b) (i) The Legislature shall make an annual appropriation from the Uniform School Fund to the State Board of Education for the costs associated with the Centennial Scholarship Program based on the projected number of students who will graduate before the conclusion of the twelfth grade in any given year.

(ii) It is understood that the appropriation is offset by the state money that would otherwise be required and appropriated for these students if they were enrolled in an additional grade for a full year.

Amended by Chapter 96, 1995 General Session

53A-15-104. Critical Languages Program -- Pilot.

(1) (a) As used in this section, "critical languages" means those languages described in the federal National Security Language Initiative, including Chinese, Arabic, Russian, Farsi, Hindi, and Korean.

(b) The Legislature recognizes:

(i) the importance of students acquiring skills in foreign languages in order for them to successfully compete in a global society; and

(ii) the academic, societal, and economic development benefits of the acquisition of critical languages.

(2) (a) The State Board of Education, in consultation with the Utah Education and Telehealth Network, shall develop and implement courses of study in the critical languages.

(b) A course may be taught:

(i) over the state's two-way interactive video conferencing system for video and audio, to students in the state's public education system;

(ii) through the Electronic High School;

(iii) through traditional instruction; or

(iv) by visiting guest teachers.

(3) (a) The courses authorized in Subsection (2) may use paraprofessionals in the classroom who:

(i) are fluent in the critical language being taught; and

(ii) can provide reinforcement and tutoring to students on days and at times when they are not receiving instruction under Subsection (2)(b).

(b) The State Board of Education, through the state superintendent of public instruction, shall ensure that the paraprofessionals are fluent in the critical languages.

(4) The State Board of Education shall make rules on the critical languages courses authorized under this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to include:

(a) notification to school districts on the times and places of the course offerings; and

(b) instructional materials for the courses.

(5) The State Board of Education shall track and monitor the Critical Languages Program and may expand the program to include more course offerings and other critical languages, subject to student demand for the courses and available resources.

(6) (a) Subject to funding for the program, the State Board of Education shall establish a pilot program for school districts and schools to initially participate in the Critical Languages Program that provides:

(i) up to \$6,000 per language per school, for up to 60 schools, for courses offered in critical languages;

(ii) up to \$100 per student who completes a critical languages course; and

(iii) up to an additional \$400 per foreign exchange student who completes a critical languages course.

(b) If the available funding is insufficient to provide the amounts described under Subsection (6)(a), the amounts provided shall be reduced pro rata so that the total provided does not exceed the available funding.

Amended by Chapter 63, 2014 General Session

53A-15-105. Dual Language Immersion Program -- Pilot.

(1) Subject to funding for the program, the State Board of Education shall establish a pilot program for school districts and schools to initially participate in the Dual Language Immersion Program.

(2) The program shall provide funds as an incentive to 15 qualifying schools for the following languages:

- (a) six pilots for Chinese;
- (b) six pilots for Spanish;
- (c) two pilots for French; and
- (d) one pilot for Navajo.

(3) Subject to funding for the program, a qualifying school shall:

(a) receive up to \$18,000 per year for up to six years;

(b) establish an instructional model that uses 50% of instruction in English and 50% of instruction in another language; and

(c) begin the instructional model described under Subsection (3)(b) in kindergarten or grade 1 and add an additional grade each year.

Enacted by Chapter 235, 2008 General Session

53A-15-202. Powers of the board.

The State Board of Education:

(1) shall establish minimum standards for career and technical education programs in the public education system;

(2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;

(3) shall cooperate with federal and state governments to administer programs which promote and maintain career and technical education;

(4) shall cooperate with the Utah College of Applied Technology, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern to ensure that students in the public education system have access to career and technical education at Utah College of Applied Technology campuses, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent or legal guardian has:

(a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and

(b) provided specific written consent for the student's participation in the program and clinical experience; and

(6) shall, after consulting with school districts, charter schools, the Utah College of

Applied Technology, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern, prepare and submit an annual report to the governor and to the Legislature's Education Interim Committee by October 31 of each year detailing:

- (a) how the career and technical education needs of secondary students are being met; and
- (b) what access secondary students have to programs offered:
 - (i) at applied technology colleges; and
 - (ii) within the regions served by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern.

Amended by Chapter 465, 2013 General Session

53A-15-205. Disability Determination Services Advisory Council -- Membership -- Duties -- Requirements for DDDS.

(1) As used in this section, "council" means the Disability Determination Services Advisory Council created in Subsection (2).

(2) There is created the Disability Determination Services Advisory Council to act as an advisory council to the State Board of Education regarding the Division of Disability Determination Services (DDDS) established under Chapter 24, Part 5, Division of Disability Determination Services.

(3) The council is composed of the following members:

- (a) the administrator of DDDS;
- (b) a representative of the United States Department of Health and Human Services, Social Security Administration, appointed by the board; and
- (c) nine persons, appointed by the board in accordance with Subsections (5) and (6), who represent a cross section of:
 - (i) persons with disabilities;
 - (ii) advocates for persons with disabilities;
 - (iii) health care providers;
 - (iv) representatives of allied state and local agencies; and
 - (v) representatives of the general public.

(4) The members appointed under Subsections (3)(a) and (3)(b) serve as nonvoting members of the council.

(5) In appointing the members described in Subsection (3)(c), the board shall:

- (a) solicit nominations from organizations and agencies that represent the interests of members described in that subsection; and
- (b) make every effort to create a balance in terms of geography, sex, race, ethnicity, and type of both mental and physical disabilities.

(6) (a) In making initial appointments of members described in Subsection (3)(c), the board shall appoint three members for two-year terms, three members for four-year terms, and three members for six-year terms. All subsequent appointments are for four years.

(b) The board shall fill any vacancy that occurs on the council for any reason by appointing a person for the unexpired term of the vacated member.

(c) Council members are eligible for one reappointment and serve until their

successors are appointed.

(7) Five voting members of the council constitute a quorum. The action of a majority of a quorum represents the action of the council.

(8) Members of the council serve without compensation but may be reimbursed for expenses incurred in the performance of their official duties.

(9) (a) The council shall annually elect a chairperson from among the membership described, and shall adopt bylaws governing its activities.

(b) The chairperson shall set the meeting agenda.

(10) The council shall:

(a) advise DDDS and the Social Security Administration regarding its practices and policies on the determination of claims for Social Security disability benefits;

(b) participate in the development of new internal practices and procedures of DDDS and policies of the Social Security Administration regarding the evaluation of disability claims;

(c) recommend changes to practices and policies to ensure that DDDS is responsive to individuals with a disability;

(d) review the DDDS budget to ensure that it is adequate to effectively evaluate disability claims and to meet the needs of persons with disabilities who have claims pending with DDDS; and

(e) review and recommend changes to policies and practices of allied state and federal agencies, health care providers, and private community organizations.

(11) The council shall annually report to the board regarding its activities.

(12) (a) To assist the council in its duties, DDDS shall provide the necessary staff assistance to enable the council to make timely and effective recommendations.

(b) Staff assistance may include:

(i) distributing meeting agendas;

(ii) advising the chairpersons of the council regarding relevant items for council discussion; and

(iii) providing reports, documents, budgets, memorandums, statutes, and regulations regarding the management of DDDS.

(c) Staff assistance shall include maintaining minutes.

Amended by Chapter 167, 2013 General Session

53A-15-301. Education programs for students with disabilities -- Supervision by the State Board of Education -- Enforcement.

(1) (a) All students with disabilities, who are between the ages of three and 22 and have not graduated from high school with a regular diploma, are entitled to a free, appropriate public education.

(b) For purposes of Subsection (1)(a), if a student with a disability turns 22 during the school year, the entitlement extends to the:

(i) beginning of the school's winter holiday for those who turn 22 on or after the beginning of the school year and before December 31; and

(ii) end of the school year for those who turn 22 after December 31 and before the end of the school year.

(c) The State Board of Education shall adopt rules consistent with applicable state

and federal law to implement this chapter.

(2) The rules adopted by the state board shall include the following:

- (a) appropriate and timely identification of students with disabilities;
- (b) diagnosis, evaluation, and classification by qualified personnel;
- (c) standards for classes and services;
- (d) provision for multidistrict programs;
- (e) provision for delivery of service responsibilities;
- (f) certification and qualifications for instructional staff; and
- (g) services for dual enrollment students attending public school on a part-time basis

under Section 53A-11-102.5.

(3) (a) The state board shall have general control and supervision over all educational programs for students within the state who have disabilities.

(b) Those programs must comply with rules adopted by the state board under this section.

(4) The state superintendent of public instruction shall enforce this chapter.

Amended by Chapter 82, 2002 General Session

53A-15-302. State director of special education -- Qualifications -- Duties.

(1) The State Board of Education shall appoint a state director of special education, who shall be qualified and experienced in the area of special education.

(2) The state director has the following duties and responsibilities:

- (a) to assist the state board and state superintendent of public instruction in performing their duties under this chapter;
- (b) to encourage and assist school districts and other authorized public agencies in the organization of programs for students with disabilities;
- (c) to provide general supervision over all public programs offered through a public school, public agency, public institution, or private agency for students with disabilities;
- (d) to cooperate with private schools and other private agencies concerned with educating and training students with disabilities; and
- (e) to coordinate all state programs for students with disabilities.

Amended by Chapter 53, 1992 General Session

53A-15-303. School district responsibility -- Reimbursement of costs -- Other programs.

(1) (a) Each school district shall provide, either singly or in cooperation with other school districts or public institutions, a free, appropriate education program for all students with disabilities who are residents of the district.

(b) The program shall include necessary special facilities, instruction, and education-related services.

(c) The costs of a district's program, or a district's share of a joint program, shall be paid from district funds.

(2) School districts that provide special education services under this chapter in accordance with applicable rules of the State Board of Education shall receive reimbursement from the board under Title 53A, Chapter 17a, Minimum School Program

Act, and other applicable laws.

(3) (a) A school district may, singly or in cooperation with other public entities, provide education and training for persons with disabilities who are younger than three or older than 22 consistent with Subsection 53A-15-301(1).

(b) The cost of such a program may be paid from fees, contributions, and other funds received by the district for support of the program, but may not be paid from public education funds.

Amended by Chapter 82, 2002 General Session

53A-15-303.5. Participation of students with a disability in extracurricular activities.

(1) A student with a disability may not be denied the opportunity of participating in public school programs or extracurricular activities solely because of the student's age, unless the participation threatens the health or safety of the student.

(2) The school district in cooperation with the Utah Department of Health shall establish criteria used to determine the health and safety factor.

(3) Subsection (1) applies to a student who:

(a) has not graduated from high school with a regular diploma; and

(b) is under the age of 20, if participation is recommended by the student's individualized education program team.

Amended by Chapter 215, 2000 General Session

53A-15-304. Services provided by Department of Health.

The Department of Health shall provide diagnostic and evaluation services, which are required by state or federal law but are not typically otherwise provided by school districts, to students with disabilities.

Amended by Chapter 53, 1992 General Session

53A-15-304.5. Special education assessments for children in the custody of the Division of Child and Family Services.

Each school district shall provide an initial special education assessment for children who enter the custody of the Division of Child and Family Services, upon request by that division, for children whose school records indicate that they may have disabilities requiring special education services. The assessment shall be conducted within 30 days of the request by the Division of Child and Family Services.

Enacted by Chapter 318, 1996 General Session

53A-15-305. Resolution of disputes in special education -- Hearing request -- Timelines -- Levels -- Appeal process -- Recovery of costs.

(1) The Legislature finds that it is in the best interest of students with disabilities to provide for a prompt and fair final resolution of disputes which may arise over educational programs and rights and responsibilities of students with disabilities, their parents, and the

public schools.

(2) Therefore, the State Board of Education shall adopt rules meeting the requirements of 20 U.S.C. Section 1415 governing the establishment and maintenance of procedural safeguards for students with disabilities and their parents or guardians as to the provision of free, appropriate public education to those students.

(3) The timelines established by the board shall provide adequate time to address and resolve disputes without unnecessarily disrupting or delaying the provision of free, appropriate public education for students with disabilities.

(4) Prior to seeking a hearing or other formal proceedings, the parties to a dispute under this section shall make a good faith effort to resolve the dispute informally at the school building level.

(5) (a) If the dispute is not resolved under Subsection (4), a party may request a due process hearing.

(b) The hearing shall be conducted under rules adopted by the board in accordance with 20 U.S.C. Section 1415.

(6) (a) A party to the hearing may appeal the decision issued under Subsection (5) to a court of competent jurisdiction under 20 U.S.C. Section 1415(i).

(b) The party must file the judicial appeal within 30 days after issuance of the due process hearing decision.

(7) If the parties fail to reach agreement on payment of attorney fees, then a party seeking recovery of attorney fees under 20 U.S.C. Section 1415(i) for a special education administrative action shall file a court action within 30 days after issuance of a decision under Subsection (5).

Amended by Chapter 9, 2001 General Session

53A-15-401. State Board of Education to supervise.

(1) The general control and supervision, but not the direct management, of adult education is vested in the State Board of Education.

(2) The board has the following powers:

(a) makes and enforces rules to organize, conduct, and supervise adult education;

(b) appoints state staff for the adult education program, establishes their duties, and fixes their compensation;

(c) determines the qualifications of, and issues teaching certificates to, persons employed to give adult education instruction; and

(d) determines the basis of apportionment and distributes funds made available for adult education.

(3) (a) The State Board of Education shall make rules providing for the establishment of fees which shall be imposed by local school boards for participation in adult education programs.

(b) A fee structure for adult education shall take into account the ability of a Utah resident who participates in adult education to pay the fees.

(c) Sections 53A-12-103 and 53A-12-104 pertaining to fees and fee waivers in secondary schools do not apply to adult education.

Amended by Chapter 257, 2004 General Session

53A-15-402. Director of adult education.

(1) Upon recommendation of the state superintendent, the State Board of Education may appoint a full-time director for adult education to work under the supervision of the board.

(2) The director may coordinate the adult education program authorized under Sections 53A-15-401 through 53A-15-405 with other adult education programs.

Enacted by Chapter 2, 1988 General Session

53A-15-403. Local school boards' authority to direct adult education programs.

A local school board may do the following:

(1) establish and maintain classes for adult education, with classes being held at times and places convenient and accessible to the members of the class;

(2) raise and appropriate funds for an adult education program;

(3) subject to Sections 53A-12-101 and 53A-15-401, determine fees for participation in an adult education program; and

(4) hire persons to instruct adult education classes.

Amended by Chapter 257, 2004 General Session

53A-15-404. Eligibility.

(1) Adult education classes are open to every person 18 years of age or over and to any person who has completed high school.

(2) Eligible nonresidents of the state shall be charged tuition at least equal to that charged nonresident students for similar classes at a local or nearby state college or university, unless waived in whole or in part by the local school board in an open meeting.

(3) The district superintendent may, upon the recommendation of an authorized representative of the Division of Child and Family Services, exempt an adult domiciled in Utah from the payment of adult education fees.

Amended by Chapter 318, 1996 General Session

53A-15-405. Salaries -- Costs.

(1) Salaries and other necessary expenses of the state adult education staff shall be paid from funds appropriated for adult education.

(2) The State Board of Education shall determine the terms and conditions of payment.

(3) A local school board shall pay all costs incident to the local administration and operation of its adult education program.

(4) The board shall submit reports required by the State Board of Education for the administration of adult education.

Enacted by Chapter 2, 1988 General Session

53A-15-603. Gang prevention and intervention policies.

(1) (a) The State Board of Education shall adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction.

(b) The rules described in Subsection (1)(a) shall provide that the gang prevention and intervention policies of a local school board or charter school governing board may include provisions that reflect the individual school district's or charter school's unique needs or circumstances.

(2) The rules described in Subsection (1) may include the following provisions:

(a) school faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement;

(b) a student who participates in gang activities may be excluded from participation in extracurricular activities, including interscholastic athletics, as determined by the school administration after consultation with law enforcement;

(c) gang-related graffiti or damage to school property shall result in parent or guardian notification and appropriate administrative and law enforcement actions, which may include obtaining restitution from those responsible for the damage;

(d) if a serious gang-related incident, as determined by the school administrator in consultation with local law enforcement, occurs on school property, at school related activities, or on a site that is normally considered to be under school control, notification shall be provided to parents and guardians of students in the school:

(i) informing them, in general terms, about the incident, but removing all personally identifiable information about students from the notice;

(ii) emphasizing the school's concern for safety; and

(iii) outlining the action taken at the school regarding the incident;

(e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;

(f) prohibitions on the following behavior:

(i) advocating or promoting a gang or any gang-related activities;

(ii) marking school property, books, or school work with gang names, slogans, or signs;

(iii) conducting gang initiations;

(iv) threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;

(v) aiding or abetting an activity described under Subsections (1)(f)(i) through (iv) by a person's presence or support;

(vi) displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and

(vii) communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.

(3) The rules described in Subsection (1) may require a local school board or governing board of a charter school to publicize the policies enacted by the local school board or governing board of a charter school in accordance with the rules described in

Subsection (1) to all students, parents, guardians, and faculty through school websites, handbooks, letters to parents and guardians, or other reasonable means of communication.

(4) The State Board of Education may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

Enacted by Chapter 207, 2010 General Session

53A-15-1001. Title.

This part is known as the "Electronic High School Act."

Enacted by Chapter 227, 2006 General Session

53A-15-1002. Definitions.

As used in this part:

- (1) "Board" means the State Board of Education.
- (2) "Electronic High School" means a rigorous program offering grade 9 - 12 level online courses and coordinated by the board.
- (3) "Home-schooled student" means a student:
 - (a) attends a home school;
 - (b) is exempt from school attendance pursuant to Section 53A-11-102; and
 - (c) attends no more than two regularly scheduled classes or courses in a public school per semester.
- (4) "Open-entry, open-exit" means:
 - (a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered; and
 - (b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered.

Amended by Chapter 238, 2012 General Session

53A-15-1002.5. Electronic High School created -- Purpose.

The Electronic High School is created:

- (1) to provide an opportunity for a student who has failed a course to retake the course and earn course credit;
- (2) to allow a student to complete high school graduation requirements and exit high school early;
- (3) to allow a student to take a course online so that the student has greater flexibility in scheduling courses during the regular school day; and
- (4) to allow a home-schooled or private school student in Utah to take a course within the Utah high school core curriculum.

Enacted by Chapter 238, 2012 General Session

53A-15-1003. Courses and credit.

(1) The Electronic High School may only offer courses required for high school graduation or that fulfill core curriculum course requirements established by the State Board of Education.

(2) The Electronic High School shall:

(a) offer courses in an open-entry, open-exit format; and
(b) offer core curriculum courses that are in conformance with course standards and objectives established by the board.

(3) Public schools shall:

(a) accept all credits awarded to students by the Electronic High School; and
(b) apply credits awarded for a core curriculum course toward the fulfillment of core curriculum requirements.

Amended by Chapter 238, 2012 General Session

53A-15-1004. Student eligibility for enrollment.

(1) Utah students at any age or in any grade may enroll in Electronic High School courses.

(2) The Electronic High School shall accept students into courses on a first-come first-served basis.

Enacted by Chapter 227, 2006 General Session

53A-15-1005. Services to students with disabilities.

Students with disabilities who may need additional services or resources and who seek to enroll in Electronic High School classes may request appropriate accommodations through the students' assigned schools or school districts.

Enacted by Chapter 227, 2006 General Session

53A-15-1006. Payment for an Electronic High School course.

(1) Electronic High School courses are provided to students who are Utah residents, as defined in Section 53A-2-201, free of charge.

(2) Nonresident students may enroll in Electronic High School courses for a fee set by the board, provided that the course can accommodate additional students.

Amended by Chapter 238, 2012 General Session

53A-15-1007. Electronic High School diploma.

The Electronic High School may award a diploma to a student that meets any of the following criteria upon the student's completion of high school graduation requirements set by the board:

(1) a home-schooled student;

(2) a student who has dropped out of school and whose original high school class

has graduated; or

(3) a student who is identified by the student's resident school district as ineligible for graduation from a traditional high school program for specific reasons.

Enacted by Chapter 227, 2006 General Session

53A-15-1008. Review by legislative auditor general.

(1) The legislative auditor general shall conduct a performance audit of the Electronic High School as directed by the Legislative Audit Subcommittee.

(2) In conducting the performance audit of the Electronic High School, the legislative auditor general shall develop performance metrics using factors such as:

- (a) course completion rate;
- (b) number of credits earned; and
- (c) cost of providing online courses.

(3) The legislative auditor general shall use the performance metrics developed under Subsection (2) to evaluate the Electronic High School in comparison with other online programs.

Enacted by Chapter 238, 2012 General Session

53A-15-1101. Definitions.

As used in this part:

(1) "Principal" includes the chief administrator of a school that does not have a principal.

(2) "School" means a public school, including a charter school.

(3) "School official" means the principal of a school or the local school board for a school district.

(4) "School uniform" means student clothing conforming to a school uniform policy under this part, which may include a dress code, dress of designated colors, or a reasonable designated uniform of a particular style. A school uniform policy may not include very expensive or prescriptive clothing requirements.

Enacted by Chapter 190, 2006 General Session

53A-15-1102. Uniforms in schools -- Legislative finding -- Policies.

(1) The Legislature finds that:

(a) each student should be allowed to learn in a safe environment which fosters the learning process and is free from unnecessary disruptions;

(b) the wearing of certain types of clothing may identify students as members of youth gangs and contribute to disruptive behavior and violence in the schools;

(c) school uniform policies may be part of an overall program to:

(i) improve school safety and discipline; and

(ii) help avoid the disruption of the classroom atmosphere and decorum and prevent disturbances among students; and

(d) school uniforms may:

(i) decrease violence and theft among students; and

(ii) foster and promote desirable school operating conditions and a positive educational environment in accordance with this part.

(2) In accordance with Section 53A-15-1103, a school may adopt a school uniform policy that requires students enrolled at that school to wear a designated school uniform during the school day.

(3) A school uniform policy shall:

(a) protect students' free exercise of religious beliefs;

(b) specify whether the uniform policy is voluntary or mandatory for students;

(c) specify whether or not the uniform policy has an opt-out provision in addition to the provisions under Subsection (5); and

(d) include a provision for financial assistance to families who cannot afford to purchase a required uniform, which may include:

(i) the school providing school uniforms to students;

(ii) the school making used school uniforms available to students; or

(iii) other programs to make school uniforms available to economically disadvantaged students.

(4) A school uniform policy under this part is not considered a fee for either an elementary or a secondary school.

(5) A school uniform policy shall include a provision allowing a principal at any time during the school year to grant an exemption from wearing a school uniform to a student because of extenuating circumstances.

(6) (a) If a school adopts a school uniform policy under this part, that school's governing body or local school board shall adopt local appellate procedures for school actions under this part, including a denial of an exemption requested under Subsection (5).

(b) A person may seek judicial review of an action under this part only after exhausting the remedies provided under this Subsection (6).

Enacted by Chapter 190, 2006 General Session

53A-15-1103. Uniforms in schools -- Policy approval.

(1) The school uniform policy authorized in Section 53A-15-1102 may be adopted:

(a) for a charter school:

(i) by the governing body or administrator of the charter school in accordance with Subsection (2); or

(ii) by including the school uniform policy in the school's charter approved in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;

(b) for more than one school at the district level by a local school board in accordance with Subsection (2); or

(c) for a single school at the school level by the principal of the school in accordance with Subsection (2).

(2) A school uniform policy adopted by an election is subject to the following requirements:

(a) the adopting authority shall hold a public hearing on the matter prior to formal adoption of the school uniform policy;

(b) (i) the adopting authority shall hold an election for approval of a school uniform policy prior to its adoption and shall receive an affirmative vote from a majority of those

voting at the election; and

(ii) only parents and guardians of students subject to the proposed school uniform policy may vote at the election, limited to one vote per family.

(3) (a) A local school board or principal is required to hold an election to consider adoption of a school uniform policy for an entire school district or an individual school if initiative petitions are presented as follows:

(i) for a school district, a petition signed by a parent or guardian of 20% of the district's students presented to the local school board; and

(ii) for an individual school, a petition signed by a parent or guardian of 20% of the school's students presented to the principal.

(b) The public hearing and election procedures required in Subsection (2) apply to Subsection (3).

(4) (a) The procedures set forth in Subsections (3) and (4) shall apply to the discontinuance or modification of a school uniform policy adopted under this section.

(b) A vote to discontinue an adopted school uniform policy may not take place during the first year of its operation.

(5) The adopting authority shall establish the manner and time of an election required under this section.

Enacted by Chapter 190, 2006 General Session

53A-15-1201. Title.

This part is known as the "Statewide Online Education Program Act."

Enacted by Chapter 419, 2011 General Session

53A-15-1201.5. Program name.

(1) The program created under this part shall be known as the "Statewide Online Education Program."

(2) The program name, "Statewide Online Education Program," shall be used in the dissemination of information on the program.

Enacted by Chapter 238, 2012 General Session

53A-15-1202. Definitions.

As used in this part:

(1) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(2) "Eligible student" means:

(a) a student enrolled in a district school or charter school in Utah; or

(b) beginning on July 1, 2013, a student:

(i) who attends a private school or home school; and

(ii) whose custodial parent or legal guardian is a resident of Utah.

(3) "LEA" means a local education agency in Utah that has administrative control and direction for public education.

(4) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology.

(5) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

(6) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent or guardian pursuant to rules of the State Board of Education.

Amended by Chapter 238, 2012 General Session

53A-15-1203. Statewide Online Education Program created -- Designated as program of the public education system -- Purposes.

(1) The Statewide Online Education Program is created to enable an eligible student to earn high school graduation credit through the completion of publicly funded online courses.

(2) Pursuant to Utah Constitution, Article X, Section 2, the Statewide Online Education Program is designated as a program of the public education system.

(3) The purposes of an online school are to:

(a) provide a student with access to online learning options regardless of where the student attends school, whether a public, private, or home school;

(b) provide high quality learning options for a student regardless of language, residence, family income, or special needs;

(c) provide online learning options to allow a student to acquire the knowledge and technology skills necessary in a digital world;

(d) utilize the power and scalability of technology to customize education so that a student may learn in the student's own style preference and at the student's own pace;

(e) utilize technology to remove the constraints of traditional classroom learning, allowing a student to access learning virtually at any time and in any place and giving the student the flexibility to take advantage of the student's peak learning time;

(f) provide personalized learning, where a student can spend as little or as much time as the student needs to master the material;

(g) provide greater access to self-paced programs enabling a high achieving student to accelerate academically, while a struggling student may have additional time and help to gain competency;

(h) allow a student to customize the student's schedule to better meet the student's academic goals;

(i) provide quality learning options to better prepare a student for post-secondary education and vocational or career opportunities; and

(j) allow a student to have an individualized educational experience.

Enacted by Chapter 419, 2011 General Session

53A-15-1204. Option to enroll in online courses offered through the Statewide Online Education Program.

(1) Subject to the course limitations provided in Subsection (2), an eligible student

may enroll in an online course offered through the Statewide Online Education Program if:

- (a) the student meets the course prerequisites;
- (b) the course is open for enrollment;
- (c) the online course is aligned with the student's student education/occupation plan (SEOP);
- (d) the online course is consistent with the student's individual education plan (IEP), if the student has an IEP; and

(e) the online course is consistent with the student's international baccalaureate program, if the student is participating in an international baccalaureate program.

(2) An eligible student may enroll in online courses for no more than the following number of credits:

- (a) in the 2011-12 and 2012-13 school years, two credits;
- (b) in the 2013-14 school year, three credits;
- (c) in the 2014-15 school year, four credits;
- (d) in the 2015-16 school year, five credits; and
- (e) beginning with the 2016-17 school year, six credits.

(3) Notwithstanding Subsection (2):

(a) a student's primary LEA of enrollment may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or

(b) upon the request of an eligible student, the State Board of Education may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.

(4) An eligible student's primary LEA of enrollment:

(a) in conjunction with the student and the student's parent or legal guardian, is responsible for preparing and implementing a student education/occupation plan (SEOP) for the eligible student, as provided in Section 53A-1a-106; and

(b) shall assist an eligible student in scheduling courses in accordance with the student's SEOP, graduation requirements, and the student's post-secondary plans.

(5) An eligible student's primary LEA of enrollment may not:

(a) impose restrictions on a student's selection of an online course that fulfills graduation requirements and is consistent with the student's SEOP or post-secondary plans; or

(b) give preference to an online course or online course provider.

(6) The State Board of Education, including an employee of the State Board of Education, may not give preference to an online course or online course provider.

(7) (a) Except as provided in Subsection (7)(b), a person may not provide an inducement or incentive to a public school student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection (7)(a):

(i) "Inducement or incentive" does not mean:

(A) instructional materials or software necessary to take an online course; or
(B) access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the public school student.

Amended by Chapter 238, 2012 General Session

53A-15-1205. Authorized online course providers.

The following entities may offer online courses to eligible students through the Statewide Online Education Program:

- (1) beginning with the 2011-12 school year, a charter school or district school created exclusively for the purpose of serving students online; and
- (2) beginning with the 2011-12 school year, an LEA program, approved by the LEA's governing board, that is created exclusively for the purpose of serving students online.

Amended by Chapter 238, 2012 General Session

53A-15-1206. Payment for an online course.

(1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1 credit online course is:

(a) \$200 for the following core curriculum courses, except a concurrent enrollment course:

- (i) financial literacy;
- (ii) health;
- (iii) fitness for life; and
- (iv) computer literacy;

(b) \$200 for driver education;

(c) \$250 for a course that meets core curriculum requirements in fine arts or career and technical education, except a concurrent enrollment course;

(d) \$300 for the following courses:

(i) a course that meets core curriculum requirements in social studies, except a concurrent enrollment course; and

(ii) a world language course, except a concurrent enrollment course;

(e) \$350 for the following courses:

(i) a course that meets core curriculum requirements for language arts, mathematics, or science; and

(ii) a concurrent enrollment course; and

(f) \$250 for a course not described in Subsections (1)(a) through (e).

(2) If a course meets the requirements of more than one course fee category described in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.

(3) Beginning with the 2013-14 school year, the online course fees described in Subsection (1) shall be adjusted each school year in accordance with the percentage change in value of the weighted pupil unit from the previous school year.

(4) An online learning provider shall receive payment for an online course as follows:

(a) for a .5 credit online course, 50% of the online course fee after the withdrawal period described in Section 53A-15-1206.5;

(b) for a 1 credit online course, 25% of the online course fee after the withdrawal period described in Section 53A-15-1206.5 and 25% of the online course fee upon the

beginning of the second .5 credit of the online course; and

(c) if a student completes a 1 credit online course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, 50% of the online course fee.

(5) (a) If a student fails to complete a 1 credit course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, the student may continue to be enrolled in the course until the student graduates from high school.

(b) To encourage an online course provider to provide remediation to a student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the need for credit recovery, an online course provider shall receive a payment equal to 30% of the online course fee if the student completes the online course before the student graduates from high school.

(6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a school district or charter school may:

(a) negotiate a fee with an online course provider for an amount up to the amount prescribed in Subsections (1) through (3); and

(b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).

(7) An online course provider who contracts with a vendor for the acquisition of online course content or online course instruction may negotiate the payment for the vendor's service independent of the fees specified in Subsections (1) through (3).

Amended by Chapter 238, 2012 General Session

53A-15-1206.5. Withdrawal from an online course.

(1) An online course provider shall establish a start date for an online course, including a start date for the second .5 credit of a 1 credit online course.

(2) Except as provided in Subsection (3), a student may withdraw from an online course:

(a) within 20 school calendar days of the start date, if the student enrolls in an online course on or before the start date established pursuant to Subsection (1); or

(b) within 20 school calendar days of enrolling in the online course, if the student enrolls in an online course after the start date established pursuant to Subsection (1).

(3) (a) A student may withdraw from a 1 credit online course within 20 school calendar days of the start date of the second .5 credit of the online course.

(b) An online course provider shall refund a payment received for the second .5 credit of an online course if a student withdraws from the online course pursuant to Subsection (3)(a).

(c) If a student withdraws from a 1 credit online course as provided in Subsection (3)(a), the online course provider shall receive payment for the student's completion of .5 credit of the 1 credit course in the same manner as an online course provider receives payment for a student's completion of a .5 credit online course as described in Subsection 53A-15-1206(4).

Enacted by Chapter 238, 2012 General Session

53A-15-1207. State Board of Education to deduct funds and make payments -- Plan for the payment of online courses taken by private and home school students.

(1) (a) The State Board of Education shall deduct money from funds allocated to the student's primary LEA of enrollment under Chapter 17a, Minimum School Program Act, to pay for online course fees.

(b) Money shall be deducted under Subsection (1) in the amount and at the time an online course provider qualifies to receive payment for an online course as provided in Subsection 53A-15-1206(4).

(2) From money deducted under Subsection (1), the State Board of Education shall make payments to the student's online course provider as provided in Section 53A-15-1206.

(3) The Legislature shall establish a plan, which shall take effect beginning on July 1, 2013, for the payment of online courses taken by a private school or home school student.

Amended by Chapter 238, 2012 General Session

53A-15-1208. Course credit acknowledgement.

(1) A student's primary LEA of enrollment and the student's online course provider shall enter into a course credit acknowledgement in which the primary LEA of enrollment and the online course provider acknowledge that the online course provider is responsible for the instruction of the student in a specified online course.

(2) The terms of the course credit acknowledgement shall provide that:

(a) the online course provider shall receive a payment in the amount provided under Section 53A-15-1206; and

(b) the student's primary LEA of enrollment acknowledges that the State Board of Education will deduct funds allocated to the LEA under Chapter 17a, Minimum School Program Act, in the amount and at the time the online course provider qualifies to receive payment for the online course as provided in Subsection 53A-15-1206(4).

(3) (a) A course credit acknowledgement may originate with either an online course provider or primary LEA of enrollment.

(b) The originating entity shall submit the course credit acknowledgement to the State Board of Education who shall forward it to the primary LEA of enrollment for course selection verification or the online course provider for acceptance.

(c) (i) A primary LEA of enrollment may only reject a course credit acknowledgement if:

(A) the online course is not aligned with the student's SEOP;

(B) the online course is not consistent with the student's IEP, if the student has an IEP;

(C) the online course is not consistent with the student's international baccalaureate program, if the student participates in an international baccalaureate program; or

(D) the number of online course credits exceeds the maximum allowed for the year as provided in Section 53A-15-1204.

(ii) Verification of alignment of an online course with a student's SEOP does not require a meeting with the student.

(d) An online course provider may only reject a course credit acknowledgement if:

- (i) the student does not meet course prerequisites; or
- (ii) the course is not open for enrollment.

(e) A primary LEA of enrollment or online course provider shall submit an acceptance or rejection of a course credit acknowledgement to the State Board of Education within 72 business hours of the receipt of a course credit acknowledgement from the State Board of Education pursuant to Subsection (3)(b).

(f) If an online course provider accepts a course credit acknowledgement, the online course provider shall forward to the primary LEA of enrollment the online course start date as established under Section 53A-15-1206.5.

(g) If an online course provider rejects a course credit acknowledgement, the online course provider shall include an explanation which the State Board of Education shall forward to the primary LEA of enrollment for the purpose of assisting a student with future online course selection.

(h) If a primary LEA of enrollment does not submit an acceptance or rejection of a course credit acknowledgement to the State Board of Education within 72 business hours of the receipt of a course credit acknowledgement from the State Board of Education pursuant to Subsection (3)(b), the State Board of Education shall consider the course credit acknowledgement accepted.

(i) (i) Upon acceptance of a course credit acknowledgement, the primary LEA of enrollment shall notify the student of the acceptance and the start date for the online course as established under Section 53A-15-1206.5.

(ii) Upon rejection of a course credit acknowledgement, the primary LEA of enrollment shall notify the student of the rejection and provide an explanation of the rejection.

(j) If the online course student has an individual education plan (IEP) or 504 accommodations, the primary LEA of enrollment shall forward the IEP or description of 504 accommodations to the online course provider within 72 business hours after the primary LEA of enrollment receives notice that the online course provider accepted the course credit acknowledgement.

(4) (a) A primary LEA of enrollment may not reject a course credit acknowledgement, because the LEA is negotiating, or intends to negotiate, an online course fee with the online course provider pursuant to Subsection 53A-15-1206(6).

(b) If a primary LEA of enrollment negotiates an online course fee with an online course provider before the start date of an online course, a course credit acknowledgement may be amended to reflect the negotiated online course fee.

Amended by Chapter 238, 2012 General Session

53A-15-1209. Online course credit hours included in daily membership -- Limitation.

(1) Subject to Subsection (2), a student's primary LEA of enrollment shall include online course credit hours in calculating daily membership.

(2) A student may not count as more than one FTE, unless the student intends to complete high school graduation requirements, and exit high school, early, in accordance with the student's education/occupation plan (SEOP).

(3) A student who enrolls in an online course may not be counted in membership

for a released-time class, if counting the student in membership for a released-time class would result in the student being counted as more than one FTE.

(4) Except as provided in Subsection (5), a student enrolled in an online course may earn no more credits in a year than the number of credits a student may earn in a year by taking a full course load during the regular school day in the student's primary LEA of enrollment.

(5) A student enrolled in an online course may earn more credits in a year than the number of credits a student may earn in a year by taking a full course load during the regular school day in the student's primary LEA of enrollment:

(a) if the student intends to complete high school graduation requirements, and exit high school, early, in accordance with the student's education/occupation plan (SEOP); or

(b) if allowed under local school board or charter school governing board policy.

Amended by Chapter 238, 2012 General Session

53A-15-1210. Administration of statewide assessments to students enrolled in online courses.

(1) A student enrolled in an online course that is a course for which a statewide assessment is administered under Chapter 1, Part 6, Achievement Tests, shall take the statewide assessment.

(2) (a) The State Board of Education shall make rules providing for the administration of a statewide assessment to a student enrolled in an online course.

(b) Rules made under Subsection (2)(a) shall:

(i) provide for the administration of a statewide assessment upon a student completing an online course; and

(ii) require an online course provider to proctor the statewide assessment.

Enacted by Chapter 419, 2011 General Session

53A-15-1211. Report on performance of online course providers.

(1) The State Board of Education, in collaboration with online course providers, shall develop a report on the performance of online course providers, which may be used to evaluate the Statewide Online Education Program and assess the quality of an online course provider.

(2) A report on the performance of an online course provider shall include:

(a) scores aggregated by test on statewide assessments administered under Chapter 1, Part 6, Achievement Tests, taken by students at the end of an online course offered through the Statewide Online Education Program;

(b) the percentage of the online course provider's students who complete online courses within the applicable time period specified in Subsection 53A-15-1206(4)(c);

(c) the percentage of the online course provider's students who complete online courses after the applicable time period specified in Subsection 53A-15-1206(4)(c) and before the student graduates from high school; and

(d) the pupil-teacher ratio for the combined online courses of the online course provider.

(3) The State Board of Education shall post a report on the performance of an

online course provider on the Statewide Online Education Program's website.

Amended by Chapter 238, 2012 General Session

53A-15-1212. Dissemination of information on the Statewide Online Education Program.

(1) The State Board of Education shall develop a website for the Statewide Online Education Program which shall include:

- (a) a description of the Statewide Online Education Program, including its purposes;
- (b) information on who is eligible to enroll, and how an eligible student may enroll, in an online course;
- (c) a directory of online course providers;
- (d) a link to a course catalog for each online course provider; and
- (e) a report on the performance of online course providers as required by Section 53A-15-1211.

(2) An online course provider shall provide the following information on the online course provider's website:

- (a) a description of the Statewide Online Education Program, including its purposes;
- (b) information on who is eligible to enroll, and how an eligible student may enroll, in an online course;
- (c) a course catalog;
- (d) scores aggregated by test on statewide assessments administered under Chapter 1, Part 6, Achievement Tests, taken by students at the end of an online course offered through the Statewide Online Education Program;
- (e) the percentage of an online course provider's students who complete online courses within the applicable time period specified in Subsection 53A-15-1206(4)(c);
- (f) the percentage of an online course provider's students who complete online courses after the applicable time period specified in Subsection 53A-15-1206(4)(c) and before the student graduates from high school; and
- (g) the online learning provider's pupil-teacher ratio for the online courses combined.

Amended by Chapter 238, 2012 General Session

53A-15-1212.5. Time period to enroll in an online course.

(1) To provide an LEA and online course providers with estimates of online course enrollment, a student should enroll in an online course, or declare an intention to enroll in an online course, during the high school course registration period designated by the LEA.

(2) Notwithstanding Subsection (1) and except as provided in Subsection (3), a student may enroll in an online course at any time during a calendar year.

(3) (a) A student may alter a course schedule by dropping a traditional classroom course and adding an online course consistent with course schedule alteration procedures adopted by the student's primary LEA of enrollment or high school.

(b) A school district's or high school's deadline for dropping a traditional classroom course and adding an online course shall be the same deadline for dropping and adding a traditional classroom course.

Enacted by Chapter 238, 2012 General Session

53A-15-1213. State Board of Education -- Rulemaking.

The State Board of Education shall make rules in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

- (1) establish a course credit acknowledgement form and procedures for completing and submitting to the State Board of Education a course credit acknowledgement; and
- (2) establish procedures for the administration of a statewide assessment to a student enrolled in an online course.

Enacted by Chapter 419, 2011 General Session

53A-15-1214. Review by legislative auditor general.

The legislative auditor general shall conduct a review and issue a report on the Statewide Online Education Program after the conclusion of the 2013-14 school year.

Enacted by Chapter 419, 2011 General Session

53A-15-1216. Report of noncompliance -- Action to ensure compliance.

- (1) The state superintendent shall report to the State Board of Education any report of noncompliance of this part made to a member of the staff of the State Board of Education.
- (2) The State Board of Education shall take appropriate action to ensure compliance with this part.

Enacted by Chapter 238, 2012 General Session

53A-15-1217. Agreements for online instruction.

- (1) In addition to offering online courses to students through the Statewide Online Education Program, a school district or charter school may enter into an agreement with another school district or charter school or a consortium of school districts or charter schools to provide online instruction to the school district's or charter school's students.
- (2) Online instruction offered pursuant to Subsection (1) is not subject to the requirements of this part.

Enacted by Chapter 238, 2012 General Session

53A-15-1301. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs -- Reporting requirements.

- (1) As used in the section:
 - (a) "Board" means the State Board of Education.
 - (b) "Intervention" means an effort to prevent a student from attempting suicide.
 - (c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Secondary grades":

(i) means grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, includes grade 6.

(f) "State Office of Education suicide prevention coordinator" means a person designated by the board as described in Subsection (3).

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) (a) In collaboration with the State Office of Education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program in the secondary grades of the school district or charter school.

(b) A school district or charter school's program shall include the following components:

(i) prevention of youth suicides;

(ii) youth suicide intervention; and

(iii) postvention for family, students, and faculty.

(3) The board shall:

(a) designate a State Office of Education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsection (2)(b).

(4) The State Office of Education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools; and

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator.

(5) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

(6) (a) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$500, or a lesser amount per school if the legislative appropriation is not sufficient to provide at least \$500 per school.

(c) (i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

(7) (a) The board shall report to the Legislature's Education Interim Committee, by the November 2014 meeting, jointly with the state suicide prevention coordinator, on:

(i) the progress of school district and charter school programs; and

(ii) the board's coordination efforts with the Department of Health and the state suicide prevention coordinator.

(b) School districts and charter schools shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee as required in Subsection (7)(a).

Amended by Chapter 214, 2014 General Session

Amended by Chapter 349, 2014 General Session

53A-15-1302. Parent education -- Mental health -- Bullying -- Safety.

(1) (a) Except as provided in Subsection (5), a school district shall offer a seminar for parents of students in the school district that:

- (i) is offered at no cost to parents;
- (ii) begins at or after 6 p.m.;
- (iii) is held in at least one school located in the school district; and
- (iv) covers the topics described in Subsection (2).

(b) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(c) A school district may:

- (i) develop its own curriculum for the seminar described in Subsection (1)(a); or
- (ii) use the curriculum developed by the State Board of Education under Subsection

(2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The State Board of Education shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

- (i) substance abuse, including illegal drugs and prescription drugs and prevention;
- (ii) bullying;
- (iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means; and
- (iv) Internet safety, including pornography addiction; and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3) The State Board of Education shall report to the Legislature's Education Interim Committee, by the November 2013 meeting, on the progress of implementation of the parent seminar, including if a local school board has opted out of providing the parent seminar, as described in Subsection (5), and the reasons why a local school board opted out.

(4) The State Board of Education shall report to the Legislature's Education Interim Committee by the November 2014 meeting on:

- (a) the progress of implementation of the parent seminar;
- (b) the estimated attendance reported by each school district;
- (c) a recommendation of whether to continue the parent seminar program; and
- (d) if a local school board has opted out of providing the parent seminar, as

described in Subsection (5), and the reasons why a local school board opted out.

(5) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the State Board of Education and provide the reasons why the local school board chose not to offer the parent seminar.

Amended by Chapter 349, 2014 General Session

53A-15-1401. Definitions.

As used in this part:

(1) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.

(2) "Reasonably accommodate" means an LEA shall make its best effort to enable a parent or guardian to exercise a parental right specified in Section 53A-15-1403:

(a) without substantial impact to staff and resources, including employee working conditions, safety and supervision on school premises and for school activities, and the efficient allocation of expenditures; and

(b) while balancing:

(i) the parental rights of parents or guardians;

(ii) the educational needs of other students;

(iii) the academic and behavioral impacts to a classroom;

(iv) a teacher's workload; and

(v) the assurance of the safe and efficient operation of a school.

Enacted by Chapter 392, 2014 General Session

53A-15-1402. Annual notice of parental rights.

An LEA shall annually notify a parent or guardian of a student enrolled in the LEA of the parent's or guardian's rights as specified in this part.

Enacted by Chapter 392, 2014 General Session

53A-15-1403. Parental right to academic accommodations.

(1) (a) A student's parent or guardian is the primary person responsible for the education of the student, and the state is in a secondary and supportive role to the parent or guardian. As such, a student's parent or guardian has the right to reasonable academic accommodations from the student's LEA as specified in this section.

(b) Each accommodation shall be considered on an individual basis and no student shall be considered to a greater or lesser degree than any other student.

(c) The parental rights specified in this section do not include all the rights or accommodations that may be available to a student's parent or guardian as a user of the public education system.

(2) An LEA shall reasonably accommodate a parent's or guardian's written request to retain a student on grade level based on the student's academic ability or the student's

social, emotional, or physical maturity.

(3) An LEA shall reasonably accommodate a parent's or guardian's initial selection of a teacher or request for a change of teacher.

(4) An LEA shall reasonably accommodate the request of a student's parent or guardian to visit and observe any class the student attends.

(5) (a) An LEA shall reasonably accommodate a written request of a student's parent or guardian to excuse the student from attendance for a family event or visit to a health care provider, without obtaining a note from the provider.

(b) An excused absence provided under Subsection (5)(a) does not diminish expectations for the student's academic performance.

(6) (a) An LEA shall reasonably accommodate a parent's or guardian's written request to place a student in a specialized class or an advanced course.

(b) An LEA shall consider multiple academic data points when determining an accommodation under Subsection (6)(a).

(7) Consistent with Section 53A-13-108, which requires the State Board of Education to establish graduation requirements that use competency-based standards and assessments, an LEA shall allow a student to earn course credit towards high school graduation without completing a course in school by:

(a) testing out of the course; or

(b) demonstrating competency in course standards.

(8) An LEA shall reasonably accommodate a parent's or guardian's request to meet with a teacher at a mutually agreeable time if the parent or guardian is unable to attend a regularly scheduled parent teacher conference.

(9) (a) Upon the written request of a student's parent or guardian, an LEA shall excuse the student from taking a test that is administered statewide or the National Assessment of Educational Progress.

(b) The State Board of Education shall ensure through board rule that neither an LEA nor its employees are negatively impacted through school grading or employee evaluation due to a student not taking a test pursuant to Subsection (9)(a).

(10) (a) An LEA shall provide for:

(i) the distribution of a copy of a school's discipline and conduct policy to each student in accordance with Section 53A-11-903; and

(ii) a parent's or guardian's signature acknowledging receipt of the school's discipline and conduct policy.

(b) An LEA shall notify a parent or guardian of a student's violation of a school's discipline and conduct policy and allow a parent or guardian to respond to the notice in accordance with Chapter 11, Part 9, School Discipline and Conduct Plans.

Enacted by Chapter 392, 2014 General Session

53A-16-101. Uniform School Fund -- Contents -- Interest and Dividends Account -- Invest More for Education Account.

(1) The Uniform School Fund, a special revenue fund within the Education Fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) interest and dividends derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including revenues received by donation.

(2) (a) There is created within the Uniform School Fund a restricted account known as the Interest and Dividends Account.

(b) The Interest and Dividends Account consists of:

(i) interest and dividends derived from the investment of money in the permanent State School Fund referred to in Subsection (1)(a); and

(ii) interest on account money.

(3) (a) Upon appropriation by the Legislature, money from the Interest and Dividends Account shall be used for:

(i) the administration of the School LAND Trust Program as provided in Section 53A-16-101.5; and

(ii) the performance of duties described in Section 53A-16-101.6.

(b) The Legislature may appropriate any remaining balance for the support of the public education system.

(4) (a) There is created within the Uniform School Fund a restricted account known as the Invest More for Education Account.

(b) The account shall be funded by contributions deposited into the restricted account in accordance with Section 59-10-1318.

(c) The account shall earn interest.

(d) Interest earned on the account shall be deposited into the account.

(e) The Legislature may appropriate money from the account for the support of the public education system.

Amended by Chapter 235, 2013 General Session

53A-16-101.5. School LAND Trust Program -- Purpose -- Distribution of funds -- School plans for use of funds.

(1) There is established the School LAND (Learning And Nurturing Development) Trust Program to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of the school improvement plan; and

(b) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

(2) (a) The program shall be funded each fiscal year:

(i) from the Interest and Dividends Account created in Section 53A-16-101; and

(ii) in the amount of the sum of the following:

(A) the interest and dividends from the investment of money in the permanent State School Fund deposited to the Interest and Dividends Account in the immediately preceding year; and

(B) interest accrued on money in the Interest and Dividends Account in the immediately preceding fiscal year.

(b) On and after July 1, 2003, the program shall be funded as provided in Subsection (2)(a) up to an amount equal to 2% of the funds provided for the Minimum

School Program, pursuant to Title 53A, Chapter 17a, Minimum School Program Act, each fiscal year.

(c) (i) The Legislature shall annually allocate, through an appropriation to the State Board of Education, a portion of the Interest and Dividends Account created in Section 53A-16-101 to be used for:

(A) the administration of the School LAND Trust Program; and

(B) the performance of duties described in Section 53A-16-101.6.

(ii) Any unused balance remaining from an amount appropriated under Subsection (2)(c)(i) shall be deposited in the Interest and Dividends Account for distribution to schools in the School LAND Trust Program.

(3) (a) The State Board of Education shall allocate the money referred to in Subsection (2) annually for the fiscal year beginning July 1, 2013, and for each fiscal year thereafter as follows:

(i) the Utah Schools for the Deaf and the Blind and the charter schools combined shall receive funding equal to the product of:

(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind, or in the charter schools combined, divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (2);

(ii) the amount allocated to the charter schools combined under Subsection (3)(a)(i) shall be distributed among charter schools in accordance with a formula specified in rules adopted by the State Board of Education in consultation with the State Charter School Board; and

(iii) of the funds available for distribution under Subsection (2) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:

(A) school districts shall receive 10% of the funds on an equal basis; and

(B) the remaining 90% of the funds shall be distributed on a per student basis.

(b) A school district shall distribute its allocation under Subsection (3)(a)(iii) to each school within the district on an equal per student basis.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection (3)(a)(iii).

(4) To receive its allocation under Subsection (3):

(a) a school shall have established a school community council in accordance with Section 53A-1a-108; and

(b) the school's principal shall provide a signed, written assurance in accordance with rules of the State Board of Education that the membership of the school community council is consistent with the membership requirements specified in Section 53A-1a-108.

(5) (a) The school community council or its subcommittee shall create a program to use its allocation under Subsection (3) to implement a component of the school's improvement plan, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment which the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student

performance; and

(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A school community council shall create and vote to adopt a plan for the use of School LAND Trust Program money in a meeting of the school community council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust Program money, the plan is adopted.

(c) A school community council shall:

(i) post a plan for the use of School LAND Trust Program money that is adopted in accordance with Subsection (5)(b) on the School LAND Trust Program website; and

(ii) include with the plan a report noting the number of school community council members who voted for or against the approval of the plan and the number of members who were absent for the vote.

(d) (i) A school's local school board shall approve or disapprove a plan for the use of School LAND Trust Program money.

(ii) If a local school board disapproves a plan for the use of School LAND Trust Program money, the local school board shall provide a written explanation of why the plan was disapproved and request the school community council who submitted the plan to revise the plan.

(iii) The school community council shall submit a revised plan to the local school board for approval.

(6) (a) Each school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet State Board of Education reporting requirements regarding financial and performance accountability of the program.

(b) (i) Each school, through its school community council, shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents or guardians of students attending the school.

(7) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Subsection (3)(b) on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (6)(b).

(8) (a) The governing board of a charter school shall establish a council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements listed in Subsection (5).

(b) (i) The membership of the council shall include parents or guardians of students enrolled at the school and may include other members.

(ii) The number of council members who are parents or guardians of students enrolled at the school shall exceed all other members combined by at least two.

(c) A charter school governing board may serve as the council that prepares a plan for the use of School LAND Trust Program money if the membership of the charter school

governing board meets the requirements of Subsection (8)(b)(ii).

(d) (i) Except as provided in Subsection (8)(d)(ii), council members who are parents or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(ii) Subsection (8)(d)(i) does not apply to a charter school governing board that serves as the council that prepares a plan for the use of School LAND Trust Program money.

(e) A parent or guardian of a student enrolled at the school shall serve as chair or cochair of a council that prepares a plan for the use of School LAND Trust Program money.

(f) A plan for the use of School LAND Trust Program money shall be subject to approval by the charter school governing board and the entity that authorized the establishment of the charter school.

(9) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

Amended by Chapter 332, 2014 General Session

53A-16-101.6. Creation of School Children's Trust Section -- Duties.

(1) As used in this section:

(a) "School and institutional trust lands" is as defined in Section 53C-1-103.

(b) "Section" means the School Children's Trust Section created in this section.

(c) "Trust" means:

(i) the School LAND Trust Program created in Section 53A-16-101.5; and

(ii) the lands and funds associated with the trusts described in Subsection 53C-1-103(7).

(2) There is established a School Children's Trust Section within the State Office of Education.

(3) (a) The section shall have a director.

(b) The director shall have professional qualifications and expertise in the areas generating revenue to the trust, including:

(i) economics;

(ii) energy development;

(iii) finance;

(iv) investments;

(v) public education;

(vi) real estate;

(vii) renewable resources;

(viii) risk management; and

(ix) trust law.

(c) The director shall be appointed as provided in this Subsection (3).

(d) The School and Institutional Trust Lands Board of Trustees nominating committee shall submit to the State Board of Education the name of one person to serve as director.

(e) The State Board of Education may:

- (i) appoint the person described in Subsection (3)(d) to serve as director; or
- (ii) deny the appointment of the person described in Subsection (3)(d) to serve as director.

(f) If the State Board of Education denies an appointment under this Subsection (3):

- (i) the State Board of Education shall provide in writing one or more reasons for the denial to the School and Institutional Trust Lands Board of Trustees nominating committee; and

- (ii) the School and Institutional Trust Lands Board of Trustees nominating committee and the State Board of Education shall follow the procedures and requirements of this Subsection (3) until the State Board of Education appoints a director.

(g) The State Board of Education may remove the director only by majority vote of a quorum in an open and public meeting after proper notice and the inclusion of the removal item on the agenda.

(4) The State Board of Education shall make rules regarding:

- (a) regular reporting from the School Children's Trust Section director to the State Board of Education, to allow the State Board of Education to fulfill its duties in representing the trust beneficiaries; and

- (b) the day-to-day reporting of the School Children's Trust Section director.

(5) (a) The director shall annually submit a proposed section budget to the State Board of Education.

- (b) After approving a section budget, the State Board of Education shall propose the approved budget to the Legislature.

(6) The director is entitled to attend any presentation, discussion, meeting, or other gathering concerning the trust, subject to:

- (a) provisions of law prohibiting the director's attendance to preserve confidentiality;

or

- (b) other provisions of law that the director's attendance would violate.

(7) The section shall have a staff.

(8) The section shall protect current and future beneficiary rights and interests in the trust consistent with the state's perpetual obligations under:

- (a) the Utah Enabling Act;

- (b) the Utah Constitution;

- (c) state statute; and

- (d) standard trust principles described in Section 53C-1-102.

(9) The section shall promote:

- (a) productive use of school and institutional trust lands; and

- (b) the efficient and prudent investment of funds managed by the School and Institutional Trust Fund Office, created in Section 53D-1-201.

(10) The section shall provide representation, advocacy, and input:

- (a) on behalf of current and future beneficiaries of the trust, school community councils, schools, and school districts;

- (b) on federal, state, and local land decisions and policies that affect the trust; and

- (c) to:

- (i) the School and Institutional Trust Lands Administration;

- (ii) the School and Institutional Trust Lands Board of Trustees;

- (iii) the Legislature;

(iv) the School and Institutional Trust Fund Office, created in Section 53D-1-201;
(v) the School and Institutional Trust Fund Board of Trustees, created in Section 53D-1-301;

(vi) the attorney general;

(vii) the public; and

(viii) other entities as determined by the section.

(11) The section shall provide independent oversight on the prudent and profitable management of the trust and report annually to the State Board of Education and the Legislature.

(12) The section shall provide information requested by a person or entity described in Subsections (10)(c)(i) through (vii).

(13) (a) The section shall provide training to the entities described in Subsection (13)(b) on:

(i) the School LAND Trust Program established in Section 53A-16-101.5; and

(ii) (A) school community councils established pursuant to Section 53A-1a-108; or

(B) councils established by charter school governing boards pursuant to Section 53A-16-101.5.

(b) The section shall provide the training to:

(i) local school boards and charter school governing boards;

(ii) school districts and charter schools; and

(iii) school community councils.

Amended by Chapter 332, 2014 General Session

Amended by Chapter 426, 2014 General Session

53A-16-103. Duty of Division of Finance -- Apportionment of fund by state board -- Certification of apportionments.

(1) The Division of Finance shall give the state superintendent, upon request, a written accounting of the current balance in the Uniform School Fund.

(2) The State Board of Education shall apportion the fund among the several school districts.

(3) The state superintendent shall certify the apportionments to the Division of Finance and draws warrants on the state treasurer in favor of the school districts.

Enacted by Chapter 2, 1988 General Session

53A-16-106. Annual certification of tax rate proposed by local school board -- Inclusion of school district budget -- Modified filing date.

(1) Prior to June 22 of each year, each local school board shall certify to the county legislative body in which the district is located, on forms prescribed by the State Tax Commission, the proposed tax rate approved by the local school board.

(2) A copy of the district's budget, including items under Section 53A-19-101, and a certified copy of the local school board's resolution which approved the budget and set the tax rate for the subsequent school year beginning July 1 shall accompany the tax rate.

(3) If the tax rate approved by the board is in excess of the "certified tax rate" as defined under Subsection 59-2-924(3)(a), the date for filing the tax rate and budget

adopted by the board shall be that established under Section 59-2-919.

Amended by Chapter 61, 2008 General Session
Amended by Chapter 231, 2008 General Session
Amended by Chapter 236, 2008 General Session

53A-16-107. Capital outlay levy -- Authority to use proceeds of .0002 tax rate for maintenance of school facilities -- Restrictions and procedure -- Limited authority to use proceeds for general fund purposes -- Notification required when using proceeds for general fund purposes -- Authority for small school districts to use levy proceeds for operation and maintenance of plant services.

(1) Subject to Subsection (3) and except as provided in Subsections (2), (5), (6), and (7), a local school board may annually impose a capital outlay levy not to exceed .0024 per dollar of taxable value to be used for:

- (a) capital outlay; or
- (b) debt service.

(2) (a) A local school board with an enrollment of 2,500 students or more may utilize the proceeds of a maximum of .0002 per dollar of taxable value of the local school board's annual capital outlay levy for the maintenance of school facilities in the school district.

(b) A local school board that uses the option provided under Subsection (2)(a) shall:

(i) maintain the same level of expenditure for maintenance in the current year as it did in the preceding year, plus the annual average percentage increase applied to the maintenance and operation budget for the current year; and

(ii) identify the expenditure of capital outlay funds for maintenance by a district project number to ensure that the funds are expended in the manner intended.

(c) The State Board of Education shall establish by rule the expenditure classification for maintenance under this program using a standard classification system.

(3) Beginning January 1, 2009, and through the taxable year beginning January 1, 2011, in order to qualify for receipt of the state contribution toward the minimum school program, a local school board in a county of the first class shall impose a capital outlay levy of at least .0006 per dollar of taxable value.

(4) (a) The county treasurer of a county of the first class shall distribute revenues generated by the .0006 portion of the capital outlay levy required in Subsection (3) to school districts within the county in accordance with Section 53A-16-114.

(b) (i) Except as provided in Subsection (4)(b)(ii), if a school district in a county of the first class imposes a capital outlay levy pursuant to this section which exceeds .0006 per dollar of taxable value, the county treasurer of a county of the first class shall distribute revenues generated by the portion of the capital outlay levy which exceeds .0006 to the school district imposing the levy.

(ii) If a new district and a remaining district are required to impose property tax levies pursuant to Subsection 53A-2-118.4(2), the county treasurer shall distribute revenues of the new district or remaining district generated by the portion of a capital outlay levy that exceeds .0006 in accordance with Section 53A-2-118.4.

(5) (a) Notwithstanding Subsections (1)(a) and (b) and subject to Subsections (5)(b), (c), and (d), for fiscal years 2010-11 and 2011-12, a local school board may use the proceeds of the local school board's capital outlay levy for general fund purposes if the

proceeds are not committed or dedicated to pay debt service or bond payments.

(b) If a local school board uses the proceeds described in Subsection (5)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital outlay levy proceeds for general fund purposes:

(i) prior to the board's budget hearing in accordance with the notification requirements described in Section 53A-19-102; and

(ii) at a budget hearing required in Section 53A-19-102.

(c) A local school board may not use the proceeds described in Subsection (5)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:

(i) 2300 Support Services - General District Administration; or

(ii) 2500 Support Services - Central Services.

(d) A local school board may not use the proceeds from a distribution described in Section 53A-16-114 for general fund purposes.

(6) (a) In addition to the uses described in Subsection (1), a local school board of a school district with an enrollment of fewer than 2,500 students, may use the proceeds of the local school board's capital outlay levy, in fiscal years 2011-12, 2012-13, and 2013-14, for expenditures made within the accounting function classification 2600, Operation and Maintenance of Plant Services, of the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics, excluding expenditures for mobile phone service and vehicle operation and maintenance.

(b) If a local school board of a school district with an enrollment of fewer than 2,500 students uses the proceeds of a capital outlay levy for the operation and maintenance of plant services as described in Subsection (6)(a), the local school board shall notify the public of the local school board's use of the capital outlay levy proceeds for operation and maintenance of plant services:

(i) prior to the board's budget hearing in accordance with the notification requirements described in Section 53A-19-102; and

(ii) at a budget hearing required in Section 53A-19-102.

(7) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Amended by Chapter 189, 2014 General Session

53A-16-108. Levy of tax -- Collection and deposit.

(1) After the valuation of property has been extended on the assessment rolls, the county legislative body shall levy a tax on the taxable property in the respective school districts at the rate submitted by each local school board under Section 53A-16-106.

(2) These taxes shall be collected by the county officers in the same manner as other taxes are collected.

(3) The county treasurer shall pay the tax revenues to the respective district's business administrator who shall hold the tax revenue subject to the order of the local school board.

Amended by Chapter 227, 1993 General Session

53A-16-109. Payment out of tax money by county treasurer.

(1) Each county treasurer shall pay the appropriate proportionate share of delinquent taxes, together with interest and costs on all tax sales, to each affected school district.

(2) The treasurer shall make payment as quickly as possible after collection or realization.

Enacted by Chapter 2, 1988 General Session

53A-16-110. Special tax to buy school building sites, build and furnish schoolhouses, or improve school property.

(1) (a) Except as provided in Subsection (6), a local school board may, by following the process for special elections established in Sections 20A-1-203 and 20A-1-204, call a special election to determine whether a special property tax should be levied for one or more years to buy building sites, build and furnish schoolhouses, or improve the school property under its control.

(b) The tax may not exceed .2% of the taxable value of all taxable property in the district in any one year.

(2) The board shall give reasonable notice of the election and follow the same procedure used in elections for the issuance of bonds.

(3) If a majority of those voting on the proposition vote in favor of the tax, it is levied in addition to a levy authorized under Section 53A-17a-145 and computed on the valuation of the county assessment roll for that year.

(4) (a) Within 20 days after the election, the board shall certify the amount of the approved tax to the governing body of the county in which the school district is located.

(b) The governing body shall acknowledge receipt of the certification and levy and collect the special tax.

(c) It shall then distribute the collected taxes to the business administrator of the school district at the end of each calendar month.

(5) The special tax becomes due and delinquent and attaches to and becomes a lien on real and personal property at the same time as state and county taxes.

(6) Notwithstanding Subsections (3) and (4), beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Amended by Chapter 371, 2011 General Session

53A-16-112. Growth in Student Population Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the "Growth in Student Population Restricted Account."

(2) The account shall be funded from the following revenue sources:

(a) any voluntary contributions received to help alleviate the anticipated surge in student growth in public elementary and secondary schools during the early part of the 21st Century; and

(b) appropriations made to the fund by the Legislature.

(3) The account shall be used to help school districts meet the challenges created by anticipated significant increases in student growth in the state's public schools.

(4) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

Enacted by Chapter 215, 2001 General Session

53A-16-113. Capital local levy -- First class county required levy -- Allowable uses of collected revenue.

(1) (a) Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's capital projects.

(b) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.

(2) A school district that imposes a capital local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:

(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:

(i) a capital outlay levy imposed under Section 53A-16-107; and

(ii) the portion of the 10% of basic levy described in Section 53A-17a-145 that is budgeted for debt service or capital outlay; and

(b) revenue from new growth as defined in Subsection 59-2-924(4)(c).

(3) Beginning January 1, 2012, in order to qualify for receipt of the state contribution toward the minimum school program described in Section 53A-17a-103, a local school board in a county of the first class shall impose a capital local levy of at least .0006 per dollar of taxable value.

(4) (a) The county treasurer of a county of the first class shall distribute revenues generated by the .0006 portion of the capital local levy required in Subsection (2) to school districts within the county in accordance with Section 53A-16-114.

(b) If a school district in a county of the first class imposes a capital local levy pursuant to this section that exceeds .0006 per dollar of taxable value, the county treasurer shall distribute revenues generated by the portion of the capital local levy that exceeds .0006 to the school district imposing the levy.

(5) (a) Subject to Subsections (5)(b), (c), and (d), for fiscal year 2013-14, a local school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the local school board's annual capital local levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.

(b) If a local school board uses the proceeds described in Subsection (5)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital local levy proceeds for general fund purposes:

(i) prior to the local school board's budget hearing in accordance with the notification requirements described in Section 53A-19-102; and

(ii) at a budget hearing required in Section 53A-19-102.

(c) A local school board may not use the proceeds described in Subsection (5)(a) to fund the following accounting function classifications as provided in the Financial

Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:

(i) 2300 Support Services - General District Administration; or

(ii) 2500 Support Services - Central Services.

(d) A local school board may not use the proceeds from a distribution described in Subsection (4) for general fund purposes.

Amended by Chapter 287, 2013 General Session

53A-16-114. School capital outlay in counties of the first class -- Allocation -- Report to Education Interim Committee.

(1) For purposes of this section:

(a) "Average annual enrollment growth over the prior three years" means the quotient of:

(i) (A) enrollment in the current school year, based on October 1 enrollment counts; minus

(B) enrollment in the year three years prior, based on October 1 enrollment counts; divided by

(ii) three.

(b) "Capital outlay increment money" means the amount of revenue equal to the difference between:

(i) the amount of revenue generated by a levy of .0006 per dollar of taxable value within a receiving school district during a fiscal year; and

(ii) the amount of revenue the receiving school district received during the same fiscal year from the distribution described in Subsection (2).

(c) "Contributing school district" means a school district in a county of the first class that in a fiscal year receives less revenue from the distribution described in Subsection (2) than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(d) "Receiving school district" means a school district in a county of the first class that in a fiscal year receives more revenue from the distribution described in Subsection (2) than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(2) The county treasurer of a county of the first class shall distribute revenues generated by the .0006 portion of the capital outlay levy required in Subsection 53A-16-107(3) or the capital local levy required in Section 53A-16-113 to school districts located within the county of the first class as follows:

(a) 25% of the revenues shall be distributed in proportion to a school district's percentage of the total enrollment growth in all of the school districts within the county that have an increase in enrollment, calculated on the basis of the average annual enrollment growth over the prior three years in all of the school districts within the county that have an increase in enrollment over the prior three years, as of the October 1 enrollment counts; and

(b) 75% of the revenues shall be distributed in proportion to a school district's percentage of the total current year enrollment in all of the school districts within the county, as of the October 1 enrollment counts.

(3) If a new school district is created or school district boundaries are adjusted, the enrollment and average annual enrollment growth for each affected school district shall be calculated on the basis of enrollment in school district schools located within that school district's newly created or adjusted boundaries, as of October 1 enrollment counts.

(4) On or before December 31 of each year, the State Board of Education shall provide a county treasurer with audited enrollment information from the fall enrollment audit necessary to distribute revenues as required by this section.

(5) On or before March 31 of each year, a county treasurer in a county of the first class shall distribute the revenue generated within the county of the first class during the prior calendar year from the capital outlay levy described in Section 53A-16-107 or the capital local levy described in Section 53A-16-113.

(6) On or before the November meeting of the Education Interim Committee of each year, a receiving school district shall report to the committee:

(a) how the receiving school district spent the district's capital outlay increment money during the prior fiscal year; and

(b) the receiving school district's plan to increase student capacity of existing school buildings within the district.

(7) The Education Interim Committee shall consider the reports of receiving school districts described in Subsection (6) as part of a review to reauthorize this section and provisions related to this section, if the committee is directed to conduct a review pursuant to Title 63I, Chapter 1, Legislative Oversight and Sunset Act.

Amended by Chapter 189, 2014 General Session

53A-17a-101. Title.

This chapter is known as the "Minimum School Program Act."

Amended by Chapter 21, 1999 General Session

53A-17a-102. Purpose of chapter.

(1) The purpose of this chapter is to provide a minimum school program for the state in accordance with the constitutional mandate. It recognizes that all children of the state are entitled to reasonably equal educational opportunities regardless of their place of residence in the state and of the economic situation of their respective school districts or other agencies.

(2) It further recognizes that although the establishment of an educational system is primarily a state function, school districts should be required to participate on a partnership basis in the payment of a reasonable portion of the cost of a minimum program.

(3) It is also the purpose of this chapter to describe the manner in which the state and the school districts shall pay their respective share of the costs of a minimum program. This chapter also recognizes that each locality should be empowered to provide educational facilities and opportunities beyond the minimum program and accordingly provide a method whereby that latitude of action is permitted and encouraged.

Renumbered and Amended by Chapter 72, 1991 General Session

53A-17a-103. Definitions.

As used in this chapter:

(1) "Basic state-supported school program" or "basic program" means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in statute, except as otherwise provided in this chapter.

(2) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a minimum basic tax rate, as specified in Subsection 53A-17a-135(1)(a); and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the State Tax Commission; and

(B) the minimum basic tax rate certified by the State Tax Commission for the previous year.

(b) For purposes of this Subsection (2), "ad valorem property tax revenue" does not include property tax revenue received statewide from personal property that is:

(i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (2), the State Tax Commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the State Tax Commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(3) "Pupil in average daily membership (ADM)" means a full-day equivalent pupil.

(4) (a) "State-supported minimum school program" or "Minimum School Program" means public school programs for kindergarten, elementary, and secondary schools as described in this Subsection (4).

(b) The minimum school program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the State Board of Education.

(c) (i) The board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by local school boards or charter school governing boards, shall receive full support by the State Board of Education as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) (i) A local school board or charter school governing board may reallocate up to 32 instructional hours or 4 school days established under Subsection (4)(c) for teacher

preparation time or teacher professional development.

(ii) A reallocation of instructional hours or school days under Subsection (4)(d)(i) is subject to the approval of two-thirds of the members of a local school board or charter school governing board voting in a regularly scheduled meeting:

(A) at which a quorum of the local school board or charter school governing board is present; and

(B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(iii) If a local school board or charter school governing board reallocates instructional hours or school days as provided by this Subsection (4)(d), the school district or charter school shall notify students' parents and guardians of the school calendar at least 90 days before the beginning of the school year.

(iv) Instructional hours or school days reallocated for teacher preparation time or teacher professional development pursuant to this Subsection (4)(d) is considered part of a school term referred to in Subsection (4)(b).

(e) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

(i) Basic School Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

(5) "Weighted pupil unit or units or WPU or WPUs" means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each district.

Amended by Chapter 389, 2014 General Session

53A-17a-105. Powers and duties of State Board of Education to adjust Minimum School Program allocations.

(1) Except as provided in Subsection (2) or (4), if the number of weighted pupil units in a program is underestimated, the State Board of Education shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(2) If the number of weighted pupil units in a program is overestimated, the State Board of Education shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (2)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state guarantee per weighted pupil unit provided under the voted local levy program established in Section 53A-17a-133 or the board local levy program established in Section 53A-17a-164, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter

schools, if the state supplement is less than the amount prescribed by Subsection 53A-1a-513(4); or

(d) to support a school district with a loss in student enrollment as provided in Section 53A-17a-139.

(3) If local contributions from the minimum basic tax rate imposed under Section 53A-17a-135 are overestimated, the State Board of Education shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

(4) If local contributions from the minimum basic tax rate imposed under Section 53A-17a-135 are underestimated, the State Board of Education shall:

(a) spend the excess local contributions for the purposes specified in Subsection (2), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

(5) Except as provided in Subsection (2) or (4), the State Board of Education shall reduce the guarantee per weighted pupil unit provided under the voted local levy program established in Section 53A-17a-133 or board local levy program established in Section 53A-17a-164, if:

(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

(6) Money appropriated to the State Board of Education is nonlapsing.

(7) The State Board of Education shall report actions taken by the board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

Amended by Chapter 310, 2013 General Session

53A-17a-105.5. Flexibility in the use of program funds.

(1) As used in this section, "qualifying program" means:

(a) the Enhancement for At-Risk Students Program created in Section 53A-17a-166;

(b) the Enhancement for Accelerated Students Program created in Section 53A-17a-165; and

(c) the concurrent enrollment program created in Section 53A-15-101.

(2) If a school district or charter school receives an allocation of state funds for a qualifying program that is less than \$10,000, the school district or charter school may:

(a) (i) combine the funds with one or more qualifying program fund allocations each

of which is less than \$10,000; and

(ii) use the combined funds in accordance with the program requirements for any of the qualifying programs that are combined; or

(b) (i) transfer the funds to a qualifying program for which the school district or charter school received an allocation of funds that is greater than or equal to \$10,000; and

(ii) use the combined funds in accordance with the program requirements for the qualifying program to which the funds are transferred.

Amended by Chapter 7, 2011 General Session

53A-17a-106. Determination of weighted pupil units.

The number of weighted pupil units in the minimum school program for each year is the total of the units for each school district determined as follows:

(1) The number of units is computed by adding the average daily membership of all pupils of the district attending schools, other than kindergarten and self-contained classes for children with a disability.

(2) The number of units is computed by adding the average daily membership of all pupils of the district enrolled in kindergarten and multiplying the total by .55.

(a) In those districts that do not elect to hold kindergarten for a full nine-month term, the local school board may approve a shorter term of nine weeks' duration.

(b) Upon board approval, the number of pupils in average daily membership at the short-term kindergarten shall be counted for the purpose of determining the number of units allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding nine weeks, compared to the total number of days schools are held in that district in the regular school year.

(3) (a) The State Board of Education shall use prior year plus growth to determine average daily membership in distributing money under the minimum school program where the distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

(b) Under prior year plus growth, kindergarten through grade 12 average daily membership for the current year is based on the actual kindergarten through grade 12 average daily membership for the previous year plus an estimated percentage growth factor.

(c) The growth factor is the percentage increase in total average daily membership on the first school day of October in the current year as compared to the total average daily membership on the first school day of October of the previous year.

Amended by Chapter 73, 2001 General Session

53A-17a-107. Professional staff weighted pupil units.

(1) Professional staff weighted pupil units are computed and distributed in accordance with the following schedule:

(a) Professional Staff Cost Formula

Years of Experience	Bachelor's Degree	Bachelor's +30 Qt. Hr.	Master's Degree	Master's Degree +45 Qt. Hr.	Doctorate
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1	1.00	1.05	1.10	1.15	1.20
2	1.05	1.10	1.15	1.20	1.25
3	1.10	1.15	1.20	1.25	1.30
4	1.15	1.20	1.25	1.30	1.35
5	1.20	1.25	1.30	1.35	1.40
6	1.25	1.30	1.35	1.40	1.45
7	1.30	1.35	1.40	1.45	1.50
8	1.35	1.40	1.45	1.50	1.55
9			1.50	1.55	1.60
10				1.60	1.65
11					1.70

(b) Multiply the number of full-time or equivalent professional personnel in each applicable experience category in Subsection (1)(a) by the applicable weighting factor.

(c) Divide the total of Subsection (1)(b) by the number of professional personnel included in Subsection (1)(b) and reduce the quotient by 1.00.

(d) Multiply the result of Subsection (1)(c) by 1/4 of the weighted pupil units computed in accordance with Sections 53A-17a-106 and 53A-17a-109.

(2) The State Board of Education shall enact rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which require a certain percentage of a district's professional staff to be certified in the area in which they teach in order for the district to receive full funding under the schedule.

(3) If an individual's teaching experience is a factor in negotiating a contract of employment to teach in the state's public schools, then the local school board is encouraged to accept as credited experience all of the years the individual has taught in the state's public schools.

Amended by Chapter 382, 2008 General Session

53A-17a-108. Weighted pupil units for small school district administrative costs -- Appropriation for charter school administrative costs.

(1) Administrative costs weighted pupil units are computed and distributed to small school districts in accordance with the following schedule:

Administrative Costs Schedule

School District Enrollment as of October 1	Weighted Pupil Units
1 - 500 students	95
501 - 1,000 students	80

1,001 - 2,000 students 70

2,001 - 5,000 students 60

(2) (a) Except as provided in Subsection (2)(b), money appropriated to the State Board of Education for charter school administrative costs shall be distributed to charter schools in the amount of \$100 for each charter school student in enrollment.

(b) (i) If money appropriated for charter school administrative costs is insufficient to provide the amount per student prescribed in Subsection (2)(a), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(ii) If the State Board of Education makes adjustments to Minimum School Program allocations under Section 53A-17a-105, the allocation provided in Subsection (2)(b)(i) shall be determined after adjustments are made under Section 53A-17a-105.

(c) Charter schools are encouraged to identify and use cost-effective methods of performing administrative functions, including contracting for administrative services with the State Charter School Board as provided in Section 53A-1a-501.6.

(3) Charter schools are not eligible for funds for administrative costs under Subsection (1).

Amended by Chapter 3, 2010 General Session

Amended by Chapter 399, 2010 General Session

53A-17a-109. Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Necessarily existent small schools funding balance" means the difference between:

(i) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

(ii) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a school district, the board shall, in consultation with the local school board, classify schools in the district as necessarily existent small schools, in accordance with this section and board rules adopted under this section.

(b) An application must be submitted to the board before April 2, and the board must report a decision to a school district before June 2.

(3) The board shall adopt standards and make rules to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy and which shall serve the purpose of eliminating schools where consolidation is feasible by participation in special school units; and

(b) ensure that districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area.

(4) A one or two-year secondary school that has received necessarily existent small school money under this section prior to July 1, 2000, may continue to receive such money

in subsequent years under board rule.

(5) The board shall prepare and publish objective standards and guidelines for determining which small schools are necessarily existent after consultation with local school boards.

(6) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using regression formulas adopted by the board.

(b) The regression formulas establish the following maximum sizes for funding under the necessarily existent small school program:

- | | |
|---|-----|
| (i) an elementary school | 160 |
| (ii) a one or two-year secondary school | 300 |
| (iii) a three-year secondary school | 450 |
| (iv) a four-year secondary school | 500 |
| (v) a six-year secondary school | 600 |

(c) Schools with fewer than 10 students shall receive the same add-on weighted pupil units as schools with 10 students.

(d) The board shall prepare and distribute an allocation table based on the regression formula to each school district.

(7) (a) To avoid penalizing a district financially for consolidating its small schools, additional weighted pupil units may be allowed a district each year, not to exceed two years.

(b) The additional weighted pupil units may not exceed the difference between what the district receives for a consolidated school and what it would have received for the small schools had they not been consolidated.

(8) (a) Subject to Subsection (8)(b), the board may distribute a portion of necessarily existent small schools funding in accordance with a formula adopted by the board that considers the tax effort of a local school board.

(b) The amount distributed in accordance with Subsection (8)(a) may not exceed the necessarily existent small schools fund in balance of the prior fiscal year.

(9) A district may use the money allocated under this section for maintenance and operation of school programs or for other school purposes as approved by the board.

Amended by Chapter 106, 2013 General Session

53A-17a-111. Weighted pupil units for programs for students with disabilities
-- District allocation.

(1) The number of weighted pupil units for students with disabilities shall reflect the direct cost of programs for those students conducted in accordance with rules established by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Disability program money allocated to districts is restricted and shall be spent for the education of students with disabilities but may include expenditures for approved programs of services conducted for certified instructional personnel who have students with disabilities in their classes.

(3) The State Board of Education shall establish and strictly interpret definitions and provide standards for determining which students have disabilities and shall assist districts in determining the services that should be provided to students with disabilities.

(4) Each year the board shall evaluate the standards and guidelines that establish the identifying criteria for disability classifications to assure strict compliance with those standards by the districts.

(5) (a) Money appropriated to the State Board of Education for add-on WPU for students with disabilities enrolled in regular programs shall be allocated to school districts as provided in this Subsection (5).

(b) Beginning on July 1, 2003, the State Board of Education shall:

(i) use a district's average number of special education add-on weighted pupil units determined by the previous five year's average daily membership data as a foundation for the special education add-on appropriation; and

(ii) implement a hold harmless provision for up to three years as needed to accomplish a phase-in period for school districts to accommodate the change in the special education add-on WPU foundation formula.

(c) A district's special education add-on WPU for the current year may not be less than the foundation special education add-on WPU.

(d) Growth WPU shall be added to the prior year special education add-on WPU, and growth WPU shall be determined as follows:

(i) The special education student growth factor is calculated by comparing S-3 total special education ADM of two years previous to the current year to the S-3 total special education ADM three years previous to the current year, not to exceed the official October total district growth factor from the prior year.

(ii) When calculating and applying the growth factor, a district's S-3 total special education ADM for a given year is limited to 12.18% of the district's S-3 total student ADM for the same year.

(iii) Growth ADMs are calculated by applying the growth factor to the S-3 total special education ADM of two years previous to the current year.

(iv) Growth ADMs for each district are multiplied by 1.53 weighted pupil units and added to the prior year special education add-on WPU to determine each district's total allocation.

(6) If money appropriated under this chapter for programs for students with disabilities does not meet the costs of districts for those programs, each district shall first receive the amount generated for each student with a disability under the basic program.

Amended by Chapter 342, 2011 General Session

53A-17a-111.5. Districts to provide class space for deaf and blind programs.

(1) School districts with students who reside within their boundaries and are served by the Schools for the Deaf and the Blind shall:

(a) furnish the schools with space required for their programs; or

(b) help pay for the cost of leasing classroom space in other school districts.

(2) A district's participation in the program under Subsection (1) is based upon the number of students who are served by the Schools for the Deaf and the Blind and who reside within the district as compared to the state total of students who are served by the schools.

Amended by Chapter 221, 2003 General Session

53A-17a-112. Preschool special education appropriation -- Extended year program appropriation -- Appropriation for special education programs in state institutions -- Appropriations for stipends for special educators.

(1) (a) Money appropriated to the State Board of Education for the preschool special education program shall be allocated to school districts to provide a free, appropriate public education to preschool students with a disability, ages three through five.

(b) The money shall be distributed on the basis of the school district's count of preschool children with a disability for December 1 of the previous year, as mandated by federal law.

(2) Money appropriated for the extended school year program for children with a severe disability shall be limited to students with severe disabilities with education program goals identifying significant regression and recoupment disability as approved by the State Board of Education.

(3) (a) Money appropriated for self-contained regular special education programs may not be used to supplement other school programs.

(b) Money in any of the other restricted line item appropriations may not be reduced more than 2% to be used for purposes other than those specified by the appropriation, unless otherwise provided by law.

(4) (a) The State Board of Education shall compute preschool funding by a factor of 1.47 times the current December 1 child count of eligible preschool aged three, four, and five-year-olds times the WPU value, limited to 8% growth over the prior year December 1 count.

(b) The board shall develop guidelines to implement the funding formula for preschool special education, and establish prevalence limits for distribution of the money.

(5) Of the money appropriated for Special Education - State Programming, the State Board of Education shall distribute the revenue generated from 909 WPUs to school districts, charter schools, and the Utah Schools for the Deaf and the Blind for stipends to special educators for additional days of work pursuant to the requirements of Section 53A-17a-158.

Amended by Chapter 359, 2011 General Session

Amended by Chapter 366, 2011 General Session

53A-17a-113. Weighted pupil units for career and technical education programs -- Funding of approved programs -- Performance measures -- Qualifying criteria.

(1) (a) Money appropriated to the State Board of Education for approved career and technical education programs and the comprehensive guidance program:

(i) shall be allocated to eligible recipients as provided in Subsections (2), (3), (4), and (5); and

(ii) may not be used to fund programs below the ninth grade level.

(b) Subsection (1)(a)(ii) does not apply to the following programs:

(i) comprehensive guidance;

(ii) Technology-Life-Careers; and

(iii) work-based learning programs.

- (2) (a) Weighted pupil units are computed for pupils in approved programs.
- (b) (i) The board shall fund approved programs based upon hours of membership of 9th through 12th grade students.
- (ii) Subsection (2)(b)(i) does not apply to the following programs:
- (A) comprehensive guidance;
 - (B) Technology-Life-Careers; and
 - (C) work-based learning programs.
- (c) The board shall use an amount not to exceed 20% of the total appropriation under this section to fund approved programs based on performance measures such as placement and competency attainment defined in standards set by the board.
- (d) Leadership organization funds shall constitute an amount not to exceed 1% of the total appropriation under this section, and shall be distributed to each local educational agency sponsoring career and technical education student leadership organizations based on the agency's share of the state's total membership in those organizations.
- (e) The board shall make the necessary calculations for distribution of the appropriation to school districts and may revise and recommend changes necessary for achieving equity and ease of administration.
- (3) (a) Twenty weighted pupil units shall be computed for career and technical education administrative costs for each district, except 25 weighted pupil units may be computed for each district that consolidates career and technical education administrative services with one or more other districts.
- (b) Between 10 and 25 weighted pupil units shall be computed for each high school conducting approved career and technical education programs in a district according to standards established by the board.
- (c) Forty weighted pupil units shall be computed for each district that operates an approved career and technical education center.
- (d) Between five and seven weighted pupil units shall be computed for each summer career and technical education agriculture program according to standards established by the board.
- (e) The board shall, by rule, establish qualifying criteria for districts to receive weighted pupil units under this Subsection (3).
- (4) (a) Money remaining after the allocations made under Subsections (2) and (3) shall be allocated using average daily membership in approved programs for the previous year.
- (b) A district that has experienced student growth in grades 9 through 12 for the previous year shall have the growth factor applied to the previous year's weighted pupil units when calculating the allocation of money under this Subsection (4).
- (5) Of the money allocated to comprehensive guidance programs pursuant to board rules, \$1,000,000 in grants shall be awarded to school districts or charter schools that:
- (a) provide an equal amount of matching funds; and
 - (b) do not supplant other funds used for comprehensive guidance programs.
- (6) (a) The board shall establish rules for the upgrading of high school career and technical education programs.
- (b) The rules shall reflect career and technical training and actual marketable job skills in society.
- (c) The rules shall include procedures to assist school districts to convert existing

programs which are not preparing students for the job market into programs that will accomplish that purpose.

(7) Programs that do not meet board standards may not be funded under this section.

Amended by Chapter 3, 2010 General Session

53A-17a-114. Career and technical education program alternatives.

(1) A secondary student may attend a campus of the Utah College of Applied Technology created under Title 53B, Chapter 2a, Utah College of Applied Technology, if the secondary student's career and technical education goals are better achieved by attending the Utah College of Applied Technology as determined by:

(a) the secondary student; and
(b) if the secondary student is a minor, the secondary student's parent or legal guardian.

(2) Beginning with the school year that occurs during the fiscal year that begins on July 1, 2011 and ends on June 30, 2012, a secondary student served under this section in a campus of the Utah College of Applied Technology shall be counted in the average daily membership of the sending school district or charter school.

Amended by Chapter 288, 2012 General Session

53A-17a-116. Weighted pupil units for career and technical education set-aside programs.

(1) Each district shall receive a guaranteed minimum allocation from the money appropriated to the State Board of Education for a career and technical education set-aside program.

(2) The set-aside funds remaining after the initial minimum payment allocation are distributed by an RFP process to help pay for equipment costs necessary to initiate new programs and for high priority programs as determined by labor market information.

Amended by Chapter 3, 2010 General Session

53A-17a-119. Appropriation for adult education programs.

(1) Money appropriated to the State Board of Education for adult education shall be allocated to local school boards for adult high school completion and adult basic skills programs.

(2) Each district shall receive its pro rata share of the appropriation for adult high school completion programs based on the number of people listed in the latest official census who are over 18 years of age and who do not have a high school diploma and prior year participation or as approved by board rule.

(3) On February 1 of each school year, the State Board of Education shall recapture money not used for an adult high school completion program for reallocation to districts that have implemented programs based on need and effort as determined by the board.

(4) To the extent of money available, school districts shall provide programs to adults who do not have a diploma and who intend to graduate from high school, with

particular emphasis on homeless individuals who are seeking literacy and life skills.

(5) Overruns in adult education in any district may not reduce the value of the weighted pupil unit for this program in another district.

(6) School districts shall spend money on adult basic skills programs according to standards established by the board.

Amended by Chapter 3, 2010 General Session

53A-17a-120.5. Appropriation for concurrent enrollment.

(1) Money appropriated to the State Board of Education for concurrent enrollment shall be allocated as follows:

(a) the money shall first be allocated proportionally, based upon student credit hour delivered, between courses that are:

(i) taught by public school educators; and

(ii) taught by college or university faculty;

(b) from the money allocated under Subsection (1)(a)(i):

(i) 60% of the money shall be allocated to local school boards and charter schools; and

(ii) 40% of the money shall be allocated to the State Board of Regents; and

(c) from the money allocated under Subsection (1)(a)(ii):

(i) 40% of the money shall be allocated to local school boards and charter schools; and

(ii) 60% of the money shall be allocated to the State Board of Regents.

(2) The State Board of Education shall make rules providing that a school participating in the concurrent enrollment programs offered under Section 53A-15-101 shall receive an allocation from the money described in Subsection (1) as provided in Section 53A-15-101.

(3) The State Board of Regents shall make rules providing that an institution of higher education participating in the concurrent enrollment programs offered under Section 53A-15-101 shall receive an allocation from the money described in Subsection (1) as provided in the rules.

(4) Subject to budget constraints, the Legislature shall annually increase the money appropriated to the State Board of Education for concurrent enrollment based on:

(a) enrollment growth in concurrent enrollment from additional students enrolled, courses offered, and credit hours taken; and

(b) the percentage increase in the value of the weighted pupil unit.

(5) (a) The State Board of Education and the State Board of Regents shall annually report to the Public Education Appropriations Subcommittee:

(i) an accounting of the money appropriated for concurrent enrollment; and

(ii) a justification of the split described in Subsections (1)(a) and (b).

(b) The State Board of Regents shall annually report to the Higher Education Appropriations Subcommittee on concurrent enrollment participation and growth, including data on what higher education tuition would have been charged for the hours of concurrent enrollment credit granted.

(6) In order to qualify for funds under this section, a concurrent enrollment program shall comply with the requirements described in Section 53A-15-101, including rules

adopted in accordance with Subsection 53A-15-101(3).

Amended by Chapter 3, 2010 General Session

53A-17a-124. Quality Teaching Block Grant Program -- State contributions.

(1) The State Board of Education shall distribute money appropriated for the Quality Teaching Block Grant Program to school districts and charter schools according to a formula adopted by the board, after consultation with school districts and charter schools, that allocates the funding in a fair and equitable manner.

(2) School districts and charter schools shall use Quality Teaching Block Grant money to implement professional learning that meets the standards specified in Section 53A-3-701.

Amended by Chapter 346, 2014 General Session

53A-17a-124.5. Appropriation for class size reduction.

(1) Money appropriated to the State Board of Education for class size reduction shall be used to reduce the average class size in kindergarten through the eighth grade in the state's public schools.

(2) Each district or charter school shall receive its allocation based upon prior year average daily membership in kindergarten through grade 8 plus growth as determined under Subsection 53A-17a-106(3) as compared to the total prior year average daily membership in kindergarten through grade 8 plus growth of school districts and charter schools that qualify for an allocation pursuant to Subsection (8).

(3) (a) A district may use its allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).

(b) (i) Each district or charter school shall use 50% of its allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.

(ii) If a district's or charter school's average class size is below 18 in grades kindergarten through grade 2, it may petition the state board for, and the state board may grant, a waiver to use its allocation under Subsection (3)(b)(i) for class size reduction in the other grades.

(4) Schools may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of their allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.

(5) (a) A school district or charter school may use up to 20% of its allocation under Subsection (1) for capital facilities projects if such projects would help to reduce class size.

(b) If a school district's or charter school's student population increases by 5% or 700 students from the previous school year, the school district or charter school may use up to 50% of any allocation it receives under this section for classroom construction.

(6) This appropriation is to supplement any other appropriation made for class size reduction.

(7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the number of students in the

state in kindergarten through grade eight.

(8) (a) To qualify for class size reduction money, a school district or charter school shall submit:

(i) a plan for the use of the school district's or charter school's allocation of class size reduction money to the State Board of Education; and

(ii) beginning with the 2014-15 school year, a report on the school district's or charter school's use of class size reduction money in the prior school year.

(b) The plan and report required pursuant to Subsection (8)(a) shall include the following information:

(i) (A) the number of teachers employed using class size reduction money;

(B) the amount of class size reduction money expended for teachers; and

(C) if supplemental school district or charter school funds are expended to pay for teachers employed using class size reduction money, the amount of the supplemental money;

(ii) (A) the number of paraprofessionals employed using class size reduction money;

(B) the amount of class size reduction money expended for paraprofessionals; and

(C) if supplemental school district or charter school funds are expended to pay for paraprofessionals employed using class size reduction money, the amount of the supplemental money; and

(iii) the amount of class size reduction money expended for capital facilities.

(c) In addition to submitting a plan and report on the use of class size reduction money, a school district or charter school shall annually submit a report to the State Board of Education that includes the following information:

(i) the number of teachers employed using K-3 Reading Improvement Program money received pursuant to Sections 53A-17a-150 and 53A-17a-151;

(ii) the amount of K-3 Reading Improvement Program money expended for teachers;

(iii) the number of teachers employed in kindergarten through grade 8 using Title I money;

(iv) the amount of Title I money expended for teachers in kindergarten through grade 8; and

(v) a comparison of actual average class size by grade in grades kindergarten through 8 in the school district or charter school with what the average class size would be without the expenditure of class size reduction, K-3 Reading Improvement Program, and Title I money.

(d) The information required to be reported in Subsections (8)(b)(i)(A) through (C), (8)(b)(ii)(A) through (C), and (8)(c) shall be categorized by a teacher's or paraprofessional's teaching assignment, such as the grade level, course, or subject taught.

(e) The State Board of Education may make rules specifying procedures and standards for the submission of:

(i) a plan and a report on the use of class size reduction money as required by this section; and

(ii) a report required under Subsection (8)(c).

(f) Based on the data contained in the class size reduction plans and reports submitted by school districts and charter schools, and data on average class size, the

State Board of Education shall annually report to the Education Interim Committee on the impact of class size reduction, K-3 Reading Improvement Program, and Title I money on class size.

Amended by Chapter 299, 2013 General Session

53A-17a-125. Appropriation for retirement and Social Security.

(1) The employee's retirement contribution shall be 1% for employees who are under the state's contributory retirement program.

(2) The employer's contribution under the state's contributory retirement program is determined under Section 49-12-301, subject to the 1% contribution under Subsection (1).

(3) (a) The employer-employee contribution rate for employees who are under the state's noncontributory retirement program is determined under Section 49-13-301.

(b) The same contribution rate used under Subsection (3)(a) shall be used to calculate the appropriation for charter schools described under Subsection (5).

(4) (a) Money appropriated to the State Board of Education for retirement and Social Security money shall be allocated to school districts and charter schools based on a district's or charter school's total weighted pupil units compared to the total weighted pupil units for all districts in the state.

(b) Subject to budget constraints, money needed to support retirement and Social Security shall be determined by taking the district's prior year allocation and adjusting it for:

- (i) student growth;
- (ii) the percentage increase in the value of the weighted pupil unit; and
- (iii) the effect of any change in the rates for retirement, Social Security, or both.

(5) A charter school that has made an election of nonparticipation in the Utah State Retirement Systems in accordance with Section 53A-1a-512 and Title 49, Utah State Retirement and Insurance Benefit Act, shall use the funds described under this section for retirement to provide its own compensation, benefit, and retirement programs.

Amended by Chapter 3, 2010 General Session

53A-17a-126. State support of pupil transportation.

(1) Money appropriated to the State Board of Education for state-supported transportation of public school students shall be apportioned and distributed in accordance with Section 53A-17a-127, except as otherwise provided in this section.

(2) (a) The Utah Schools for the Deaf and the Blind shall use its allocation of pupil transportation money to pay for transportation of their students based on current valid contractual arrangements and best transportation options and methods as determined by the schools.

(b) All student transportation costs of the schools shall be paid from the allocation of pupil transportation money specified in statute.

(3) (a) A school district may only claim eligible transportation costs as legally reported on the prior year's annual financial report submitted under Section 53A-3-404.

(b) The state shall contribute 85% of approved transportation costs, subject to budget constraints.

(c) If in a fiscal year the total transportation allowance for all districts exceeds the amount appropriated for that purpose, all allowances shall be reduced pro rata to equal not more than the amount appropriated.

Amended by Chapter 398, 2012 General Session

53A-17a-127. Eligibility for state-supported transportation -- Approved bus routes -- Additional local tax.

(1) A student eligible for state-supported transportation means:

(a) a student enrolled in kindergarten through grade six who lives at least 1-1/2 miles from school;

(b) a student enrolled in grades seven through 12 who lives at least two miles from school; and

(c) a student enrolled in a special program offered by a school district and approved by the State Board of Education for trainable, motor, multiple-disability, or other students with severe disabilities who are incapable of walking to school or where it is unsafe for students to walk because of their disabling condition, without reference to distance from school.

(2) If a school district implements double sessions as an alternative to new building construction, with the approval of the State Board of Education, those affected elementary school students residing less than 1-1/2 miles from school may be transported one way to or from school because of safety factors relating to darkness or other hazardous conditions as determined by the local school board.

(3) (a) The State Board of Education shall distribute transportation money to school districts based on:

(i) an allowance per mile for approved bus routes;

(ii) an allowance per hour for approved bus routes; and

(iii) a minimum allocation for each school district eligible for transportation funding.

(b) The State Board of Education shall distribute appropriated transportation funds based on the prior year's eligible transportation costs as legally reported under Subsection 53A-17a-126(3).

(c) The State Board of Education shall annually review the allowance per mile and the allowance per hour and adjust the allowances to reflect current economic conditions.

(4) (a) Approved bus routes for funding purposes shall be determined on fall data collected by October 1.

(b) Approved route funding shall be determined on the basis of the most efficient and economic routes.

(5) A Transportation Advisory Committee with representation from local school superintendents, business officials, school district transportation supervisors, and the state superintendent's staff shall serve as a review committee for addressing school transportation needs, including recommended approved bus routes.

(6) (a) Except as provided in Subsection (6)(e), a local school board may provide for the transportation of students regardless of the distance from school, from:

(i) general funds of the district; and

(ii) a tax rate not to exceed .0003 per dollar of taxable value imposed on the district.

(b) A local school board may use revenue from the tax described in Subsection

(6)(a)(ii) to pay for transporting students and for the replacement of school buses.

(c) (i) If a local school board levies a tax under Subsection (6)(a)(ii) of at least .0002, the state may contribute an amount not to exceed 85% of the state average cost per mile, contingent upon the Legislature appropriating funds for a state contribution.

(ii) The state superintendent's staff shall distribute the state contribution according to rules enacted by the State Board of Education.

(d) (i) The amount of state guarantee money which a school district would otherwise be entitled to receive under Subsection (6)(c) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.

(ii) Subsection (6)(d)(i) applies for a period of two years following the change in the certified tax rate.

(e) Beginning January 1, 2012, a local school board may not impose a tax in accordance with this Subsection (6).

(7) (a) (i) If a local school board expends an amount of revenue equal to at least .0002 per dollar of taxable value of the school district's board local levy imposed under Section 53A-17a-164 for the uses described in Subsection (6)(b), the state may contribute an amount not to exceed 85% of the state average cost per mile, contingent upon the Legislature appropriating funds for a state contribution.

(ii) The state superintendent's staff shall distribute the state contribution according to rules enacted by the State Board of Education.

(b) (i) The amount of state guarantee money that a school district would otherwise be entitled to receive under Subsection (7)(a) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.

(ii) Subsection (7)(b)(i) applies for a period of two years following the change in the certified tax rate.

Amended by Chapter 366, 2011 General Session

Amended by Chapter 371, 2011 General Session

53A-17a-131.15. State contribution for the Electronic High School.

Money appropriated to the State Board of Education for the Electronic High School shall be distributed to the school according to rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 3, 2010 General Session

53A-17a-131.17. State contribution for School LAND Trust Program.

(1) If the amount of money prescribed for funding the School LAND Trust Program in Section 53A-16-101.5 is less than or greater than the money appropriated for the School LAND Trust Program, the appropriation shall be equal to the amount of money prescribed for funding the School LAND Trust Program in Section 53A-16-101.5, up to a maximum of an amount equal to 2% of the funds provided for the Minimum School Program.

(2) The State Board of Education shall distribute the money appropriated in Subsection (1) in accordance with Section 53A-16-101.5 and rules established by the

board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 3, 2010 General Session

53A-17a-133. State-supported voted local levy authorized -- Election requirements -- State guarantee -- Reconsideration of the program.

(1) As used in this section, "voted and board local levy funding balance" means the difference between:

(a) the amount appropriated for the voted and board local levy program in a fiscal year; and

(b) the amount necessary to provide the state guarantee per weighted pupil unit as determined under this section and Section 53A-17a-164 in the same fiscal year.

(2) An election to consider adoption or modification of a voted local levy is required if initiative petitions signed by 10% of the number of electors who voted at the last preceding general election are presented to the local school board or by action of the board.

(3) (a) (i) To impose a voted local levy, a majority of the electors of a district voting at an election in the manner set forth in Subsections (9) and (10) must vote in favor of a special tax.

(ii) The tax rate may not exceed .002 per dollar of taxable value.

(b) Except as provided in Subsection (3)(c), in order to receive state support the first year, a district must receive voter approval no later than December 1 of the year prior to implementation.

(c) Beginning on or after January 1, 2012, a school district may receive state support in accordance with Subsection (4) without complying with the requirements of Subsection (3)(b) if the local school board imposed a tax in accordance with this section during the taxable year beginning on January 1, 2011 and ending on December 31, 2011.

(4) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee \$27.36 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

(b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy authorized in Section 53A-17a-164, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a school district levies a tax rate under both programs.

(c) (i) Beginning July 1, 2014, the \$27.36 guarantee under Subsections (4)(a) and (b) shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12 program by making the value of the guarantee equal to .00963 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program.

(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.

(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (4)(d)(i) applies for a period of five years following any such change

in the certified tax rate.

(e) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

(A) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (4)(c) in the current fiscal year; and

(B) distribute the state contribution to the voted and board local levy programs to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (4)(f)(i)(A).

(ii) The State Board of Education shall report action taken under this Subsection (4)(f) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

(5) (a) An election to modify an existing voted local levy is not a reconsideration of the existing authority unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the district of authority to continue the levy.

(c) If adoption of a voted local levy is contingent upon an offset reducing other local school board levies, the board must allow the electors, in an election, to consider modifying or discontinuing the imposition of the levy prior to a subsequent increase in other levies that would increase the total local school board levy.

(d) Nothing contained in this section terminates, without an election, the authority of a school district to continue imposing an existing voted local levy previously authorized by the voters as a voted leeway program.

(6) Notwithstanding Section 59-2-919, a school district may budget an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without having to comply with the notice requirements of Section 59-2-919, if:

(a) the voted local levy is approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(b) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with the requirements of Subsection (8).

(7) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this section that exceeds the certified tax rate without having to comply with the notice requirements of Section 59-2-919 if:

(a) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section;

(b) the voted local levy was approved:
(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and
(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(c) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with requirements of Subsection (8).

(8) For purposes of Subsection (6)(b) or (7)(c), the proposition submitted to the electors regarding the adoption or modification of a voted local levy shall contain the following statement:

"A vote in favor of this tax means that (name of the school district) may increase revenue from this property tax without advertising the increase for the next five years."

(9) (a) Before imposing a property tax levy pursuant to this section, a school district shall submit an opinion question to the school district's registered voters voting on the imposition of the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether the tax rate should be imposed.

(b) The election required by this Subsection (9) shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular elections;

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202; or

(iii) at a local special election conducted in accordance with the procedures and requirements of Section 20A-1-203.

(c) Notwithstanding the requirements of Subsections (9)(a) and (b), beginning on or after January 1, 2012, a school district may levy a tax rate in accordance with this section without complying with the requirements of Subsections (9)(a) and (b) if the school district imposed a tax in accordance with this section at any time during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(10) If a school district determines that a majority of the school district's registered voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax rate in accordance with Subsection (9), the school district may impose the tax rate.

Amended by Chapter 189, 2014 General Session

53A-17a-134. Board-approved leeway -- Purpose -- State support -- Disapproval.

(1) Except as provided in Subsection (9), a local school board may levy a tax rate of up to .0004 per dollar of taxable value to maintain a school program above the cost of the basic school program as follows:

(a) a local school board shall use the money generated by the tax for class size reduction within the school district;

(b) if a local school board determines that the average class size in the school district is not excessive, it may use the money for other school purposes but only if the board has declared the use for other school purposes in a public meeting prior to levying the tax rate; and

(c) a district may not use the money for other school purposes under Subsection

(1)(b) until it has certified in writing that its class size needs are already being met and has identified the other school purposes for which the money will be used to the State Board of Education and the state board has approved their use for other school purposes.

(2) (a) The state shall contribute an amount sufficient to guarantee \$27.36 per weighted pupil unit for each .0001 per dollar of taxable value.

(b) The guarantee shall increase in the same manner as provided for the voted local levy guarantee in Subsection 53A-17a-133(4)(c).

(c) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under this Subsection (2) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (2)(c)(i) applies for a period of five years following any such change in the certified tax rate.

(d) The guarantee provided under this section does not apply to:

(i) a board-authorized leeway in the first fiscal year the leeway is in effect, unless the leeway was approved by voters pursuant to Subsections (4) through (6); or

(ii) the portion of a board-authorized leeway rate that is in excess of the board-authorized leeway rate that was in effect for the previous fiscal year.

(3) The levy authorized under this section is not in addition to the maximum rate of .002 authorized in Section 53A-17a-133, but is a board-authorized component of the total tax rate under that section.

(4) As an exception to Section 53A-17a-133, the board-authorized levy does not require voter approval, but the board may require voter approval if requested by a majority of the board.

(5) An election to consider disapproval of the board-authorized levy is required, if within 60 days after the levy is established by the board, referendum petitions signed by the number of legal voters required in Section 20A-7-301, who reside within the school district, are filed with the school district.

(6) (a) A local school board shall establish its board-approved levy by April 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year except that if an election is required under this section, the levy applies to the fiscal year beginning July 1 of the next calendar year.

(b) The approval and disapproval votes authorized in Subsections (4) and (5) shall occur at a general election in even-numbered years, except that a vote required under this section in odd-numbered years shall occur at a special election held on a day in odd-numbered years that corresponds to the general election date. The school district shall pay for the cost of a special election.

(7) (a) Modification or termination of a voter-approved leeway rate authorized under this section is governed by Section 53A-17a-133.

(b) A board-authorized leeway rate may be modified or terminated by a majority vote of the board subject to disapproval procedures specified in this section.

(8) A board levy election does not require publication of a voter information pamphlet.

(9) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Amended by Chapter 178, 2013 General Session

53A-17a-135. Minimum basic tax rate -- Certified revenue levy.

(1) (a) In order to qualify for receipt of the state contribution toward the basic program and as its contribution toward its costs of the basic program, each school district shall impose a minimum basic tax rate per dollar of taxable value that generates \$296,709,700 in revenues statewide.

(b) The preliminary estimate for the 2014-15 minimum basic tax rate is .001477.

(c) The State Tax Commission shall certify on or before June 22 the rate that generates \$296,709,700 in revenues statewide.

(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.

(2) (a) The state shall contribute to each district toward the cost of the basic program in the district that portion which exceeds the proceeds of the levy authorized under Subsection (1).

(b) In accord with the state strategic plan for public education and to fulfill its responsibility for the development and implementation of that plan, the Legislature instructs the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each of the coming five years to develop budgets that will fully fund student enrollment growth.

(3) (a) If the proceeds of the levy authorized under Subsection (1) equal or exceed the cost of the basic program in a school district, no state contribution shall be made to the basic program.

(b) The proceeds of the levy authorized under Subsection (1) which exceed the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

Amended by Chapter 4, 2014 General Session

53A-17a-136. Cost of operation and maintenance of minimum school program -- Division between state and school districts.

(1) The total cost of operation and maintenance of the minimum school program in the state is divided between the state and school districts as follows:

(a) Each school district shall impose a minimum basic tax rate on all taxable, tangible property in the school district and shall contribute the tax proceeds toward the cost of the basic program as provided in this chapter.

(b) Each school district may also impose a levy for the purpose of participating in the levy programs provided in Section 53A-17a-133 or 53A-17a-164.

(c) The state shall contribute the balance of the total costs.

(2) The contributions by the school districts and by the state are computed separately for the purpose of determining their respective contributions to the basic program and to the levy programs provided in Section 53A-17a-133 or 53A-17a-164.

Amended by Chapter 371, 2011 General Session

53A-17a-139. Loss in student enrollment -- Board action.

To avoid penalizing a school district financially for an excessive loss in student

enrollment due to factors beyond its control, the State Board of Education may allow a percentage increase in units otherwise allowable during any year when a district's average daily membership drops more than 4% below the average for the highest two of the preceding three years in the district.

Enacted by Chapter 72, 1991 General Session

53A-17a-140. Contracts with teachers.

A school district may not enter into contracts with teachers that would prevent the district from paying differential salaries or putting limitations on an individual salary paid in order to fill a shortage in specific teaching areas.

Enacted by Chapter 72, 1991 General Session

53A-17a-141. Alternative programs.

(1) Since the State Board of Education has adopted a policy that requires districts to grant credit for proficiency through alternative programs, school districts are encouraged to continue and expand their cooperation with accredited institutions through performance contracts for educational services, particularly where it is beneficial to students whose progress could be better served through alternative programs.

(2) School districts are encouraged to participate in programs that focus on increasing the number of ethnic minority and female students in the secondary schools who will go on to study mathematics, engineering, or related sciences at an institution of higher education.

Enacted by Chapter 72, 1991 General Session

53A-17a-143. Federal Impact Aid Program -- Offset for underestimated allocations from the Federal Impact Aid Program.

(1) In addition to the revenues received from the levy imposed by each school district and authorized by the Legislature under Section 53A-17a-135, the Legislature shall provide an amount equal to the difference between the district's anticipated receipts under the entitlement for the fiscal year from the Federal Impact Aid Program and the amount the district actually received from this source for the next preceding fiscal year.

(2) If at the end of a fiscal year the sum of the receipts of a school district from a distribution from the Legislature pursuant to Subsection (1) plus the school district's allocations from the Federal Impact Aid Program for that fiscal year exceeds the amount allocated to the district from the Federal Impact Aid Program for the next preceding fiscal year, the excess funds are carried into the next succeeding fiscal year and become in that year a part of the district's contribution to its basic program for operation and maintenance under the state minimum school finance law.

(3) During that year the district's required tax rate for the basic program shall be reduced so that the yield from the reduced tax rate plus the carryover funds equal the district's required contribution to its basic program.

(4) A district that reduces its basic tax rate under this section shall receive state minimum school program funds as though the reduction in the tax rate had not been made.

Amended by Chapter 371, 2011 General Session

53A-17a-144. Contribution of state to cost of minimum school program -- Determination of amounts -- Levy on taxable property -- Disbursal -- Deficiency.

The state's contribution to the total cost of the minimum school program is determined and distributed as follows:

(1) The State Tax Commission shall levy an amount determined by the Legislature on all taxable property of the state.

(a) This amount, together with other funds provided by law, is the state's contribution to the minimum school program.

(b) The statewide levy is set at zero until changed by the Legislature.

(2) During the first week in November, the State Tax Commission shall certify to the State Board of Education the amounts designated as state aid for each district under Section 59-2-902.

(3) (a) The actual amounts computed under Section 59-2-902 are the state's contribution to the minimum school program of each district.

(b) The state board shall provide each district with a statement of the amount of state aid.

(4) Prior to the first day of each month, the state treasurer and the Division of Finance, with the approval of the State Board of Education, shall disburse 1/12 of the state's contribution to the cost of the minimum school program to each school district.

(a) A disbursement may not be made to a district whose payments have been interrupted under Subsection (4)(d).

(b) Discrepancies between the monthly disbursements and the actual cost of the program shall be adjusted in the final settlement under Subsection (5).

(c) If the monthly distributions overdraw the money in the Uniform School Fund, the Division of Finance is authorized to run this fund in a deficit position.

(d) The state board may interrupt disbursements to a district if, in the judgment of the board, the district is failing to comply with the minimum school program, is operating programs that are not approved by the state board, or has not submitted reports required by law or the state board.

(i) Disbursements shall be resumed upon request of the state board.

(ii) Back disbursements shall be included in the next regular disbursement, and the amount disbursed certified to the State Division of Finance and state treasurer by the state board.

(e) The State Board of Education may authorize exceptions to the 1/12 per month disbursement formula for grant funds if the board determines that a different disbursement formula would better serve the purposes of the grant.

(5) (a) If money in the Uniform School Fund is insufficient to meet the state's contribution to the minimum school program as appropriated, the amount of the deficiency thus created shall be carried as a deficiency in the Uniform School Fund until the next session of the Legislature, at which time the Legislature shall appropriate funds to cover the deficiency.

(b) If there is an operating deficit in public education Uniform School Fund appropriations, the Legislature shall eliminate the deficit by:

- (i) budget transfers or other legal means;
 - (ii) appropriating money from the Education Budget Reserve Account;
 - (iii) appropriating up to 25% of the balance in the General Fund Budget Reserve Account; or
 - (iv) some combination of Subsections (5)(b)(i), (ii), and (iii).
- (c) Nothing in Subsection (5)(b) precludes the Legislature from appropriating more than 25% of the balance in the General Fund Budget Reserve Account to fund operating deficits in public education appropriations.

Amended by Chapter 342, 2011 General Session

53A-17a-145. Additional levy by district for debt service, school sites, buildings, buses, textbooks, and supplies.

- (1) Except as provided in Subsection (5), a school district may elect to increase its tax rate by up to 10% of the cost of the basic program.
- (2) The proceeds from the increase may only be used for debt service, the construction or remodeling of school buildings, or the purchase of school sites, buses, equipment, textbooks, and supplies.
- (3) This section does not prohibit a district from exercising the authority granted by other laws relating to tax rates.
- (4) This increase in the tax rate is not included in determining the apportionment of the State School Fund, and is in addition to other tax rates authorized by law.
- (5) Beginning January 1, 2012, a school district may not:
 - (a) levy a tax rate in accordance with this section; or
 - (b) increase its tax rate as described in Subsection (1).

Amended by Chapter 371, 2011 General Session

53A-17a-146. Reduction of district allocation based on insufficient revenues.

- (1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the Minimum School Program, excluding:
 - (a) the state-supported voted local levy program pursuant to Section 53A-17a-133;
 - (b) the state-supported board local levy program pursuant to Section 53A-17a-164;and
- (c) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53A-1a-513.
- (2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the State Board of Education, after consultation with each school district and charter school, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.
- (3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), a school district or charter school shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) A school district or charter school may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

- (a) educator salary adjustments provided in Section 53A-17a-153;
- (b) the Teacher Salary Supplement Program provided in Section 53A-17a-156;
- (c) the extended year for special educators provided in Section 53A-17a-158;
- (d) USTAR centers provided in Section 53A-17a-159;
- (e) the School LAND Trust Program created in Section 53A-16-101.5; or
- (f) a special education program within the Basic School Program.

(6) A school district or charter school may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) A school district or charter school that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the State Board of Education as part of the school district or charter school's Annual Financial and Program report.

Amended by Chapter 371, 2011 General Session

Amended by Chapter 381, 2011 General Session

53A-17a-147. Use of funds for approved programs -- Assessment of funded programs.

(1) Funds appropriated under this chapter shall only be used for programs approved by the State Board of Education.

(2) The State Board of Education shall assess the progress and degree of effectiveness of all programs funded under this chapter.

Amended by Chapter 221, 2003 General Session

53A-17a-150. K-3 Reading Improvement Program.

(1) As used in this section:

- (a) "Board" means the State Board of Education.
- (b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.
- (c) "Program" means the K-3 Reading Improvement Program.
- (d) "Program money" means:
 - (i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and
 - (ii) money appropriated by the Legislature to the program.

(2) The K-3 Reading Improvement Program consists of program money and is created to supplement other school resources to achieve the state's goal of having third graders reading at or above grade level.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the K-3 Reading Improvement Program.

(4) (a) To receive program money, a school district or charter school must submit a plan to the board for reading proficiency improvement that incorporates the following components:

- (i) assessment;
- (ii) intervention strategies;
- (iii) professional development for classroom teachers in kindergarten through grade three;

- (iv) reading performance standards; and

- (v) specific measurable goals that include the following:

- (A) a growth goal for each school within a school district and each charter school based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53A-1-606.6; and

- (B) a growth goal for each school district and charter school to increase the percentage of third grade students who read on grade level from year to year as measured by the third grade reading test administered pursuant to Section 53A-1-603.

- (b) The board shall provide model plans which a school district or charter school may use, or the school district or charter school may develop its own plan.

- (c) Plans developed by a school district or charter school shall be approved by the board.

- (d) The board shall develop uniform standards for acceptable growth goals that a school district or charter school adopts as described in this Subsection (4).

(5) (a) There is created within the K-3 Reading Achievement Program three funding programs:

- (i) the Base Level Program;

- (ii) the Guarantee Program; and

- (iii) the Low Income Students Program.

- (b) The board may use no more than \$7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the board for the K-3 Reading Improvement Program and not used by the board for computer-assisted instructional learning and assessments as described in Subsection (5)(b), shall be allocated to the three funding programs as follows:

- (a) 8% to the Base Level Program;

- (b) 46% to the Guarantee Program; and

- (c) 46% to the Low Income Students Program.

(7) (a) To participate in the Base Level Program, a school district or charter school shall submit a reading proficiency improvement plan to the board as provided in Subsection (4) and must receive approval of the plan from the board.

- (b) (i) Each school district qualifying for Base Level Program funds and the qualifying elementary charter schools combined shall receive a base amount.

- (ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each school in an amount proportionate to:

- (A) each existing charter school's prior year fall enrollment in grades kindergarten through grade three; and

- (B) each new charter school's estimated fall enrollment in grades kindergarten through grade three.

- (8) (a) A school district that applies for program money in excess of the Base Level

Program funds shall choose to first participate in either the Guarantee Program or the Low Income Students Program.

(b) A school district must fully participate in either the Guarantee Program or the Low Income Students Program before it may elect to either fully or partially participate in the other program.

(c) To fully participate in the Guarantee Program, a school district shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) To fully participate in the Low Income Students Program, a school district shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The board shall verify that a school district allocates the money required in accordance with Subsections (8)(c) and (d) before it distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the board the information the board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in (9)(c), a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between \$21 times the district's total WPU's and the revenue the school district is required to allocate under Subsection (8)(c) to fully participate in the Guarantee Program; and

(ii) not less than \$0.

(b) Except as provided in (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to \$21 times the school's total WPU's.

(c) The board may adjust the \$21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the board for computer-assisted instructional learning and assessments.

(10) The board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) A school district or charter school shall use program money for reading proficiency improvement interventions in grades kindergarten through grade 3 that have proven to significantly increase the percentage of students reading at grade level, including:

(i) reading assessments; and

(ii) focused reading remediations that may include:

(A) the use of reading specialists;

(B) tutoring;

(C) before or after school programs;

(D) summer school programs; or

(E) the use of reading software; or

(F) the use of interactive computer software programs for literacy instruction and

assessments for students.

(b) A school district or charter school may use program money for portable technology devices used to administer reading assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) (a) Each school district and charter school shall annually submit a report to the board accounting for the expenditure of program money in accordance with its plan for reading proficiency improvement.

(b) On or before the November meeting of the Education Interim Committee of each year, the board shall report a summary of the reading improvement program expenditures of each school district and charter school.

(c) If a school district or charter school uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the board for the amount of program money improperly used, up to the amount of program money received from the board.

(14) (a) The board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each school district or charter school to annually report progress in meeting school and school district goals stated in the school district's or charter school's plan for student reading proficiency.

(ii) If a school does not meet or exceed the school's goals, the school district or charter school shall prepare a new plan which corrects deficiencies. The new plan must be approved by the board before the school district or charter school receives an allocation for the next year.

(15) (a) If for two consecutive school years, a school district fails to meet its goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section 53A-1-603, the school district shall terminate any levy imposed under Section 53A-17a-151 and may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

(b) If for two consecutive school years, a charter school fails to meet its goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section 53A-1-603, the charter school may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

(16) The board shall make an annual report to the Public Education Appropriations Subcommittee that:

(a) includes information on:

(i) student learning gains in reading for the past school year and the five-year trend;

(ii) the percentage of third grade students reading on grade level in the past school year and the five-year trend;

(iii) the progress of schools and school districts in meeting goals stated in a school district's or charter school's plan for student reading proficiency; and

(iv) the correlation between third grade students reading on grade level and results of third grade language arts scores on a criterion-referenced test or computer adaptive test; and

(b) may include recommendations on how to increase the percentage of third grade students who read on grade level.

Amended by Chapter 466, 2013 General Session

53A-17a-151. Board leeway for reading improvement.

(1) Except as provided in Subsection (4), a local school board may levy a tax rate of up to .000121 per dollar of taxable value for funding the school district's K-3 Reading Improvement Program created under Section 53A-17a-150.

(2) The levy authorized under this section:

- (a) is in addition to any other levy or maximum rate;
- (b) does not require voter approval; and
- (c) may be modified or terminated by a majority vote of the board.

(3) A local school board shall establish its board-approved levy under this section by June 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year.

(4) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Amended by Chapter 371, 2011 General Session

53A-17a-153. Educator salary adjustments.

(1) As used in this section, "educator" means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) a license issued under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act; and

(b) a position as a:

- (i) classroom teacher;
- (ii) speech pathologist;
- (iii) librarian or media specialist;
- (iv) preschool teacher;
- (v) mentor teacher;
- (vi) teacher specialist or teacher leader;
- (vii) guidance counselor;
- (viii) audiologist;
- (ix) psychologist; or
- (x) social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

(3) Money appropriated to the State Board of Education for educator salary adjustments shall be distributed to school districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

(4) School districts, charter schools, and the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) the amount of the salary adjustment shall be the same for each full-time-equivalent educator position in the school district, charter school, or the Utah Schools for the Deaf and the Blind;

(b) a person who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the person works as an educator; and

(c) salary adjustments may be awarded only to educators who have received a satisfactory rating or above on their most recent evaluation.

(5) (a) Each school district and charter school and the Utah Schools for the Deaf and the Blind shall submit a report to the State Board of Education on how the money for salary adjustments was spent, including the amount of the salary adjustment and the number of full and partial salary adjustments awarded.

(b) The State Board of Education shall compile the information reported under Subsection (5) and submit it to the Public Education Appropriations Subcommittee by November 30 each year.

(6) The State Board of Education may make rules as necessary to administer this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

(i) maintain educator salary adjustments provided in prior years; and

(ii) provide educator salary adjustments to new employees.

(b) Money appropriated for educator salary adjustments shall include money for the following employer-paid benefits:

(i) retirement;

(ii) worker's compensation;

(iii) Social Security; and

(iv) Medicare.

(8) (a) Subject to future budget constraints, the Legislature shall:

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments shall include salary adjustments for school administrators as specified in Subsection (8)(a).

(c) In distributing and awarding salary adjustments for school administrators, the State Board of Education, school districts, charter schools, and the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

Amended by Chapter 3, 2010 General Session

53A-17a-154. Appropriation for school nurses.

The State Board of Education shall distribute money appropriated for school nurses to award grants to school districts and charter schools that:

(1) provide an equal amount of matching funds; and

(2) do not supplant other money used for school nurses.

Amended by Chapter 3, 2010 General Session

53A-17a-155. Appropriation for library books and electronic resources.

(1) The State Board of Education shall distribute money appropriated for library books and electronic resources as follows:

- (a) 25% shall be divided equally among all public schools; and
- (b) 75% shall be divided among public schools based on each school's average daily membership as compared to the total average daily membership.

(2) A school district or charter school may not use money distributed under Subsection (1) to supplant other money used to purchase library books or electronic resources.

Amended by Chapter 3, 2010 General Session

53A-17a-156. Teacher Salary Supplement Program -- Appeal process.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Eligible teacher" means a teacher who:

(i) has an assignment to teach:

(A) a secondary school level mathematics course;

(B) integrated science in grade seven or eight;

(C) chemistry; or

(D) physics;

(ii) holds the appropriate endorsement for the assigned course;

(iii) has qualifying educational background; and

(iv) (A) is a new employee; or

(B) received a satisfactory rating or above on the teacher's most recent evaluation.

(c) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics;

or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics; and

(ii) for a teacher who is assigned a grade seven or eight integrated science course, chemistry course, or physics course, a bachelor's degree major, master's degree, or doctoral degree in:

(A) integrated science;

(B) chemistry;

(C) physics;

(D) physical science;

(E) general science; or

(F) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree listed in Subsections (1)(c)(ii)(A) through (E).

(2) (a) Subject to future budget constraints, the Legislature shall annually

appropriate money to the Teacher Salary Supplement Restricted Account established in Section 53A-17a-157 to fund the Teacher Salary Supplement Program.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

- (i) retirement;
- (ii) workers' compensation;
- (iii) Social Security; and
- (iv) Medicare.

(3) (a) Beginning in fiscal year 2008-09, the annual salary supplement is \$4,100 for an eligible teacher who:

- (i) is assigned full time to teach one or more courses listed in Subsections (1)(b)(i)(A) through (D); and
- (ii) meets the requirements of Subsections (1)(b)(ii) and (iii) for each course assignment.

(b) An eligible teacher who has a part-time assignment to teach one or more courses listed in Subsections (1)(b)(i)(A) through (D) shall receive a partial salary supplement based on the number of hours worked in a course assignment that meets the requirements of Subsections (1)(b)(ii) and (iii).

(4) The board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher:

- (i) is an eligible teacher; and
- (ii) has a course assignment as listed in Subsections (1)(b)(i)(A) through (D);

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers and the amount of their salary supplement, sorted by school district and charter school, to the Division of Finance.

(5) (a) An eligible teacher shall apply with the board before the conclusion of a school year to receive the salary supplement authorized in this section.

(b) An eligible teacher may apply with the board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:

- (i) the school year as an annual award; or
- (ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.

(6) (a) The board shall establish and administer an appeal process for a teacher to follow if the teacher applies for the salary supplement and is not certified under Subsection (4)(d).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in Subsection (1)(c)(i)(A) or Subsections (1)(c)(ii)(A) through (E).

(ii) A teacher shall provide transcripts and other documentation to the board in order for the board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree

listed in Subsection (1)(c)(i)(A) or Subsections (1)(c)(ii)(A) through (E).

(7) (a) The Division of Finance shall distribute money from the Teacher Salary Supplement Restricted Account to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement certified to the Division of Finance.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Restricted Account shall be used by a school district or charter school to provide a salary supplement equal to the amount specified for each eligible teacher.

(b) The salary supplement is part of the teacher's base pay, subject to the teacher's qualification as an eligible teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the board may limit or reduce the salary supplements.

Amended by Chapter 351, 2014 General Session

53A-17a-157. Teacher Salary Supplement Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the "Teacher Salary Supplement Restricted Account."

(2) The account shall be funded from appropriations made to the account by the Legislature.

(3) The account shall be used to fund teacher salary supplements for school districts and charter schools as provided in Section 53A-17a-156.

(4) The Division of Finance shall distribute account money to school districts and charter schools for the Teacher Salary Supplement Program as provided in Section 53A-17a-156.

Enacted by Chapter 397, 2008 General Session

53A-17a-158. Stipends for special educators for additional days of work.

(1) As used in this section:

(a) "IEP" means an individualized education program developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as amended.

(b) "Special education teacher" means a teacher whose primary assignment is the instruction of students with disabilities who are eligible for special education services.

(c) "Special educator" means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(i) a license issued under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act; and

(ii) a position as a:

(A) special education teacher; or

(B) speech-language pathologist.

(2) The Legislature shall annually appropriate money for stipends to special

educators for additional days of work:

(a) in recognition of the added duties and responsibilities assumed by special educators to comply with federal law regulating the education of students with disabilities and the need to attract and retain qualified special educators; and

(b) subject to future budget constraints.

(3) (a) The State Board of Education shall distribute money appropriated under this section to school districts, charter schools, and the Utah Schools for the Deaf and the Blind for stipends for special educators in the amount of \$200 per day for up to 10 additional working days.

(b) Money distributed under this section shall include, in addition to the \$200 per day stipend, money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(4) A special educator receiving a stipend shall:

(a) work an additional day beyond the number of days contracted with the special educator's school district or school for each daily stipend;

(b) schedule the additional days of work before or after the school year; and

(c) use the additional days of work to perform duties related to the IEP process, including:

(i) administering student assessments;

(ii) conducting IEP meetings;

(iii) writing IEPs;

(iv) conferring with parents; and

(v) maintaining records and preparing reports.

(5) A special educator may:

(a) elect to receive a stipend for one to 10 days of additional work; or

(b) elect to not receive a stipend.

(6) A person who does not hold a full-time position as a special educator is eligible for a partial stipend equal to the percentage of a full-time special educator position the person assumes.

Enacted by Chapter 397, 2008 General Session

53A-17a-159. Utah Science Technology and Research Initiative Centers Program.

(1) (a) The Utah Science Technology and Research Initiative (USTAR) Centers Program is created to provide a financial incentive for charter schools and school districts to adopt programs that result in a more efficient use of human resources and capital facilities.

(b) The potential benefits of the program include:

(i) increased compensation for math and science teachers by providing opportunities for an expanded contract year which will enhance school districts' and charter schools' ability to attract and retain talented and highly qualified math and science teachers;

(ii) increased capacity of school buildings by using buildings more hours of the day or more days of the year, resulting in reduced capital facilities costs;

(iii) decreased class sizes created by expanding the number of instructional opportunities in a year;

(iv) opportunities for earlier high school graduation;

(v) improved student college preparation;

(vi) increased opportunities to offer additional remedial and advanced courses in math and science;

(vii) opportunities to coordinate high school and post-secondary math and science education; and

(viii) the creation or improvement of science, technology, engineering, and math centers (STEM Centers).

(2) From money appropriated for the USTAR Centers Program, the State Board of Education shall award grants to charter schools and school districts to pay for costs related to the adoption and implementation of the program.

(3) The State Board of Education shall:

(a) solicit proposals from the State Charter School Board and school districts for the use of grant money to facilitate the adoption and implementation of the program; and

(b) award grants on a competitive basis.

(4) The State Charter School Board shall:

(a) solicit proposals from charter schools that may be interested in participating in the USTAR Centers Program;

(b) prioritize the charter school proposals and consolidate them into the equivalent of a single school district request; and

(c) submit the consolidated request to the State Board of Education.

(5) In selecting a grant recipient, the State Board of Education shall consider:

(a) the degree to which a charter school or school district's proposed adoption and implementation of an extended year for math and science teachers achieves the benefits described in Subsection (1);

(b) the unique circumstances of different urban, rural, large, small, growing, and declining charter schools and school districts; and

(c) providing pilot programs in as many different school districts and charter schools as possible.

(6) (a) Except as provided in Subsection (6)(b), a school district or charter school may only use grant money to provide full year teacher contracts, part-time teacher contract extensions, or combinations of both, for math and science teachers.

(b) Up to 5% of the grant money may be used to fund math and science field trips, textbooks, and supplies.

(7) Participation in the USTAR Centers Program shall be:

(a) voluntary for an individual teacher; and

(b) voluntary for a charter school or school district.

(8) The State Board of Education shall make an annual report during the 2009, 2010, and 2011 interims to the Public Education Appropriations Subcommittee describing the program's impact on students and its effectiveness at achieving the benefits described in Subsection (1).

Enacted by Chapter 397, 2008 General Session

53A-17a-162. Beverley Taylor Sorenson Elementary Arts Learning Program.

(1) The Legislature finds that a strategic placement of arts in elementary education can impact the critical thinking of students in other core subject areas, including mathematics, reading, and science.

(2) The Beverley Taylor Sorenson Elementary Arts Learning Program is created to enhance the social, emotional, academic, and arts learning of students in kindergarten through grade six by integrating arts teaching and learning into core subject areas.

(3) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, the State Board of Education shall, after consulting with the Utah Arts Council and receiving their recommendations:

(a) subject to Subsection (6), establish a grant program to allow school districts and charter schools to hire 50 highly qualified, full-time arts specialists to be based at 50 schools;

(b) provide up to \$10,000 in one-time funds for each school arts specialist described under Subsection (3)(a) to purchase supplies and equipment;

(c) establish a grant program to allow 10 school districts to hire art coordinators, provided that a qualifying school district provides matching funds in an amount equal to the grant amount; and

(d) annually contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the Beverley Taylor Sorenson Elementary Arts Learning Program.

(4) Beverley Taylor Sorenson Elementary Arts Learning Program money may not be used to supplant funds for existing programs funded by the state, but shall be used to augment existing programs.

(5) Schools that participate in the Beverley Taylor Sorenson Elementary Arts Learning Program shall partner with institutions of higher education that award elementary education degrees to obtain quality pre-service and in-service training, research, and leadership development for arts education.

(6) (a) Beginning with the 2011-12 school year, a school district or charter school may receive a grant under Subsection (3)(a) if the school district or charter school provides matching funds for 10% of the grant amount.

(b) A qualifying school district or charter school under Subsection (6)(a) shall increase its match amount by an additional 10% each subsequent year, until the school district or charter school provides matching funds in an amount equal to the grant amount.

(7) Beginning with the 2011-12 school year, the State Board of Education shall make funds available for additional schools to participate in the Beverly Taylor Sorenson Elementary Arts Learning Program, corresponding to the amount of the matching funds required from schools under Subsection (6).

(8) The State Board of Education shall, after consultation with the Utah Arts Council, make an annual report during the 2009, 2010, and 2011 interims to the Education Interim Committee describing the program's impact on students in kindergarten through grade six.

Amended by Chapter 330, 2011 General Session

53A-17a-163. Performance-based Compensation Pilot Program.

(1) The Performance-based Compensation Pilot Program is created to pilot the development and implementation of performance-based compensation plans for elementary school classroom-related staff.

(2) From money appropriated by the Legislature for the Performance-based Compensation Pilot Program, the State Board of Education shall award grants to school districts and charter schools to develop and implement performance-based compensation plans for elementary school classroom-related staff.

(3) The State Board of Education shall:

(a) solicit proposals from school districts and charter schools for the use of grant money to develop and implement performance-based compensation plans for elementary school classroom-related staff; and

(b) award grants on a competitive basis.

(4) To receive a grant, a school district or charter school shall submit a proposal to the State Board of Education to develop and implement a performance-based compensation plan over a two-year period as follows:

(a) In the first year, the school district or charter school shall develop, administer, and evaluate performance measures.

(b) In the second year, the school district or charter school shall administer performance measures and compensate classroom-related staff based on performance.

(c) A performance-based compensation plan shall provide that:

(i) student learning gains shall account for 40% of the maximum amount of performance-based compensation that may be awarded to an employee;

(ii) an employee's instructional quality or performance as measured by classroom observations or other instruments shall account for 40% of the maximum amount of performance-based compensation that may be awarded to an employee; and

(iii) the remaining 20% of the maximum amount that may be awarded to an employee shall include a measure of parent, student, or community satisfaction.

(d) A proposal shall include a budget and specify the amount of grant money requested.

(e) A school district's proposal may apply to one or more elementary schools within the district.

Enacted by Chapter 299, 2009 General Session

53A-17a-164. Board local levy -- State guarantee.

(1) Subject to the other requirements of this section, for a calendar year beginning on or after January 1, 2012, a local school board may levy a tax to fund the school district's general fund.

(2) (a) Except as provided in Subsection (2)(b), a tax rate imposed by a school district pursuant to this section may not exceed .0018 per dollar of taxable value in any calendar year.

(b) A tax rate imposed by a school district pursuant to this section may not exceed .0025 per dollar of taxable value in any calendar year if, during the calendar year beginning on January 1, 2011, the school district's combined tax rate for the following levies was greater than .0018 per dollar of taxable value:

- (i) a recreation levy imposed under Section 11-2-7;
 - (ii) a transportation levy imposed under Section 53A-17a-127;
 - (iii) a board-authorized levy imposed under Section 53A-17a-134;
 - (iv) an impact aid levy imposed under Section 53A-17a-143;
 - (v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is budgeted for purposes other than capital outlay or debt service;
 - (vi) a reading levy imposed under Section 53A-17a-151; and
 - (vii) a tort liability levy imposed under Section 63G-7-704.
- (3) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee that each .0001 of the first .0004 per dollar of taxable value generates an amount equal to the state guarantee per weighted pupil unit described in Subsection 53A-17a-133(4).
- (b) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under this Subsection (3) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.
- (ii) Subsection (3)(b)(i) applies for a period of five years following any changes in the certified tax rate.
- (4) A school district that imposes a board local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:
- (a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:
 - (i) a recreation levy imposed under Section 11-2-7;
 - (ii) a transportation levy imposed under Section 53A-17a-127;
 - (iii) a board-authorized levy imposed under Section 53A-17a-134;
 - (iv) an impact aid levy imposed under Section 53A-17a-143;
 - (v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is budgeted for purposes other than capital outlay or debt service;
 - (vi) a reading levy imposed under Section 53A-17a-151; and
 - (vii) a tort liability levy imposed under Section 63G-7-704; and
 - (b) revenue from new growth as defined in Subsection 59-2-924(4)(c).

Amended by Chapter 178, 2013 General Session
Amended by Chapter 313, 2013 General Session

53A-17a-165. Enhancement for Accelerated Students Program.

- (1) As used in this section, "eligible low-income student" means a student who:
 - (a) takes an Advanced Placement test;
 - (b) has applied for an Advanced Placement test fee reduction; and
 - (c) qualifies for a free or a lunch provided at reduced cost.
- (2) The State Board of Education shall distribute money appropriated for the Enhancement for Accelerated Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with school districts and charter schools.

(3) A distribution formula adopted under Subsection (2) may include an allocation of money for:

- (a) Advanced Placement courses;
- (b) Advanced Placement test fees of eligible low-income students;
- (c) gifted and talented programs, including professional development for teachers of high ability students; and
- (d) International Baccalaureate programs.

(4) The greater of 1.5% or \$100,000 of the appropriation for the Enhancement for Accelerated Students Program may be allowed for International Baccalaureate programs.

(5) A school district or charter school shall use money distributed under this section to enhance the academic growth of students whose academic achievement is accelerated.

(6)(a) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for Accelerated Students Program and make an annual report to the Public Education Appropriations Subcommittee on the effectiveness of the program.

(b) In the report required by Subsection (6)(a), the State Board of Education shall include data showing the use and impact of money allocated for Advanced Placement test fees of eligible low-income students.

Amended by Chapter 193, 2014 General Session

53A-17a-166. Enhancement for At-Risk Students Program.

(1)(a) Subject to the requirements of Subsection (1)(b), the State Board of Education shall distribute money appropriated for the Enhancement for At-Risk Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with school districts and charter schools.

(b)(i) The State Board of Education shall appropriate \$1,200,000 from the appropriation for Enhancement for At-Risk Students for a gang prevention and intervention program designed to help students at-risk for gang involvement stay in school.

(ii) Money for the gang prevention and intervention program shall be distributed to school districts and charter schools through a request for proposals process.

(2) In establishing a distribution formula under Subsection (1)(a), the State Board of Education shall use the following criteria:

- (a) low performance on U-PASS tests;
- (b) poverty;
- (c) mobility; and
- (d) limited English proficiency.

(3) A school district or charter school shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure.

(4) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program and make an annual report to the Public Education Appropriations Subcommittee on the effectiveness of the program.

Enacted by Chapter 359, 2011 General Session

53A-17a-167. Early intervention program -- Enhanced kindergarten program -- Educational technology.

(1) The State Board of Education shall, as described in Subsection (4), distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2), to school districts and charter schools that apply for the funds.

(2) A school district or charter school shall use funds appropriated in this section to offer an early intervention program, delivered through an enhanced kindergarten program that:

(a) is an academic program focused on building age-appropriate literacy and numeracy skills;

(b) uses an evidence-based early intervention model;

(c) is targeted to at-risk students; and

(d) is delivered through additional hours or other means.

(3) A school district or charter school may not require a student to participate in an enhanced kindergarten program described in Subsection (2).

(4) The State Board of Education shall distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2) as follows:

(a) (i) the total allocation for charter schools shall be calculated by:

(A) dividing the number of charter school students by the total number of students in the public education system in the prior school year; and

(B) multiplying the resulting percentage by the total amount of available funds; and

(ii) the amount calculated under Subsection (4)(a) shall be distributed to charter schools with the greatest need for an enhanced kindergarten program, as determined by the State Board of Education in consultation with the State Charter School Board;

(b) each school district shall receive the amount calculated by:

(i) multiplying the value of the weighted pupil unit by 0.45; and

(ii) multiplying the result by 20; and

(c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b) are made, shall be distributed to applicant school districts by:

(i) determining the number of students eligible to receive free lunch in the prior school year for each school district; and

(ii) prorating the remaining funds based on the number of students eligible to receive free lunch in each district.

(5) In addition to an enhanced kindergarten program described in Subsection (2), the early intervention program includes a component to address early intervention through the use of an interactive computer software program.

(6) (a) Subject to legislative appropriations, by September 1 of each year, the State Board of Education shall select one or more technology providers, through a request for proposals process, to provide an interactive computer software program for literacy instruction and assessments for students in kindergarten through grade 3.

(b) The State Board of Education shall distribute licenses for an interactive computer software program described in Subsection (6)(a) to school districts and charter schools that apply for the licenses.

(c) A school district or charter school that received a license described in Subsection (6)(b) during the prior year shall be given first priority to receive an equivalent license during the current year.

(d) Licenses distributed to school districts and charter schools in addition to the licenses described in Subsection (6)(c) shall be distributed through a competitive process.

(7) On or before November 1, 2013, and every year thereafter, the State Board of Education shall report final testing data regarding an interactive computer software program described in Subsection (6), including student learning gains as a result of the interactive computer software program, to:

- (a) the Education Interim Committee; and
- (b) the governor.

Amended by Chapter 466, 2013 General Session

53A-17a-168. Appropriation for Title 1 Schools in Improvement Paraeducators Program.

(1) As used in this section:

(a) "Eligible school" means a Title 1 school that has not achieved adequate yearly progress, as defined in the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq. in the same subject area for two consecutive years.

(b) "Paraeducator" means a school employee who:

- (i) delivers instruction under the direct supervision of a teacher; and
- (ii) meets the requirements under Subsection (3).

(c) "Program" means the Title 1 Schools in Improvement Paraeducators Program created in this section.

(2) The program is created to provide funding for eligible schools to hire paraeducators to provide additional instructional aid in the classroom to assist students in achieving academic success and assist the school in exiting Title 1 school improvement status.

(3) A paraeducator who is funded under this section shall have:

- (a) earned a secondary school diploma or a recognized equivalent;
- (b) (i) completed at least two years with a minimum of 48 semester hours at an accredited higher education institution;
- (ii) obtained an associates or higher degree from an accredited higher education institution; or
- (iii) satisfied a rigorous state or local assessment about the individual's knowledge of, and ability to assist in instructing students in reading, writing, and mathematics; and
- (c) received large group-, small group-, and individual-level professional development that is intensive and focused and covers curriculum, instruction, assessment, classroom and behavior management, and teaming.

(4) The State Board of Education shall distribute money appropriated for the program to eligible schools, in accordance with rules adopted by the board.

(5) Funds appropriated under the program may not be used to supplant other money used for paraeducators at eligible schools.

(6) The State Board of Education shall submit an annual report to the Legislature's Public Education Appropriations Subcommittee that includes information on:

- (a) the amount of money distributed to each eligible school under this section;
- (b) how many paraeducators were hired at each eligible school with program money;

(c) additional funding eligible schools used to supplement program money in hiring paraeducators; and

(d) accountability measures, including test scores of students served by the program.

Enacted by Chapter 188, 2012 General Session

53A-17a-169. Student Leadership Skills Development Pilot Program.

(1) For purposes of this section:

(a) "Board" means the State Board of Education.

(b) "Pilot program" means the Student Leadership Skills Development Pilot Program created in Subsection (2).

(2) There is created the Student Leadership Skills Development Pilot Program to develop student behaviors and skills that enhance a school's learning environment and are vital for success in a career, including:

- (a) communication skills;
- (b) teamwork skills;
- (c) interpersonal skills;
- (d) initiative and self-motivation;
- (e) goal setting skills;
- (f) problem solving skills; and
- (g) creativity.

(3) (a) The board shall administer the program and award grants to elementary schools that apply for a grant on a competitive basis.

(b) The board may award a grant of:

(i) up to \$10,000 per school for the first year a school participates in the pilot program; and

(ii) up to \$20,000 per school for subsequent years a school participates in the pilot program.

(4) An elementary school may participate in the pilot program established under this section in accordance with rules of the State Board of Education.

(5) In selecting elementary schools to participate in the pilot program, the board shall:

(a) require a school in the first year the school participates in the pilot program to provide matching funds or an in-kind contribution of goods or services in an amount equal to the grant the school receives from the board;

(b) require a school to participate in the pilot program for two years; and

(c) give preference to Title I schools or schools in need of academic improvement.

(6) A school that receives a grant described in Subsection (3) shall:

(a) (i) set school-wide goals for the school's student leadership skills development program; and

(ii) require each student to set personal goals; and

(b) provide the following to the board after the first school year of implementation of the program:

(i) evidence that the grant money was used for the purpose of purchasing or developing the school's own student leadership skills development program; and

(ii) a report on the effectiveness and impact of the school's student leadership skills development program on student behavior and academic results as measured by:

- (A) a reduction in truancy;
- (B) assessments of academic achievement;
- (C) a reduction in incidents of student misconduct or disciplinary actions; and
- (D) the achievement of school-wide goals and students' personal goals.

(7) After three years' participation in the pilot program, a school may not receive additional grant money if the school fails to demonstrate an improvement in student behavior and academic achievement as measured by the data reported under Subsection (6).

(8) (a) The board shall make a report on the pilot program to the Education Interim Committee by the committee's October 2016 meeting.

(b) The report shall include an evaluation of the pilot program's success in enhancing a school's learning environment and improving academic achievement.

Amended by Chapter 393, 2014 General Session

53A-17a-170. Grants for field trips to the State Capitol.

(1) The State Board of Education may award grants to school districts and charter schools to take students on field trips to the State Capitol.

(2) Grant money may be used to pay for transportation expenses related to a field trip to the State Capitol.

(3) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding grants; and

(b) specifying how grant money shall be allocated among school districts and charter schools.

Enacted by Chapter 381, 2013 General Session

53A-17a-171. Intergenerational Poverty Interventions Grant Program -- Definitions -- Grant requirements -- Reporting requirements.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Eligible student" means a student who is classified as a child affected by intergenerational poverty.

(c) "Intergenerational poverty" has the same meaning as in Section 35A-9-102.

(d) "Local Education Agency" or "LEA" means a school district or charter school.

(e) "Program" means the Intergenerational Poverty Interventions Grant Program created in Subsection (2).

(2) The Intergenerational Poverty Interventions Grant Program is created to provide grants to eligible LEAs to fund additional educational opportunities for eligible students, outside of the regular school day offerings.

(3) Subject to future budget constraints, the board shall distribute to LEAs money appropriated for the program in accordance with this section.

(4) The board shall:

(a) solicit proposals from LEAs to receive money under the program; and

- (b) award grants to LEAs based on criteria described in Subsection (5).
- (5) In awarding a grant under Subsection (4), the board shall consider:
 - (a) the percentage of an LEA's students that are classified as children affected by intergenerational poverty;
 - (b) the level of administrative support and leadership at an eligible LEA to effectively implement, monitor, and evaluate the program; and
 - (c) an LEA's commitment and ability to work with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts to provide services to the LEA's eligible students.
- (6) To receive a grant under the program, an LEA shall submit a proposal to the board detailing:
 - (a) the LEA's strategy to implement the program, including the LEA's strategy to improve the academic achievement of children affected by intergenerational poverty;
 - (b) the LEA's strategy for coordinating with and engaging the Department of Workforce Services to provide services for the LEA's eligible students;
 - (c) the number of students the LEA plans to serve, categorized by age and intergenerational poverty status;
 - (d) the number of students, eligible students, and schools the LEA plans to fund with the grant money; and
 - (e) the estimated cost per student.
- (7) (a) The board shall annually report to the Legislature's Education Interim Committee and the Utah Intergenerational Welfare Reform Commission, created in Section 35A-9-301, by November 30 of each year:
 - (i) the progress of LEA programs using grant money;
 - (ii) the progress of LEA programs in improving the academic achievement of children affected by intergenerational poverty; and
 - (iii) the LEA's coordination efforts with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts.
- (b) LEAs that receive grant money pursuant to this section shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee and the Utah Intergenerational Welfare Reform Commission as required in Subsection (7)(a).

Enacted by Chapter 375, 2014 General Session

53A-18-101. School district tax anticipation notes.

- (1) A local school board may borrow money in anticipation of the collection of taxes or other revenue of the school district so long as it complies with Title 11, Chapter 14, Local Government Bonding Act.
- (2) The board may incur indebtedness under this section for any purpose for which district funds may be expended, but not in excess of the estimated district revenues for the current school year.
- (3) Revenues include all revenues of the district from the state or any other source.
- (4) The district may incur the indebtedness prior to imposing or collecting the taxes or receiving the revenues. The indebtedness bears interest at the lowest obtainable rate or rates.

Amended by Chapter 105, 2005 General Session

53A-18-102. Additional indebtedness -- Election -- Voter information pamphlet.

(1) As used in this section:

(a) "Qualifying general obligation bond" means a bond:

(i) issued pursuant to Title 11, Chapter 14, Local Government Bonding Act; and

(ii) authorized by an election held on or after July 1, 2014.

(b) "Voter information pamphlet" means the notification required by Section 11-14-202.

(2) A local school board may require the qualified electors of the district to vote on a proposition as to whether to incur indebtedness, subject to conditions provided in Title 11, Chapter 14, Local Government Bonding Act, if:

(a) the debts of the district are equal to school taxes and other estimated revenues for the school year, and it is necessary to create and incur additional indebtedness in order to maintain and support schools within the district; or

(b) the local school board determines it advisable to issue school district bonds to purchase school sites, buildings, or furnishings or to improve existing school property.

(3) A local school board shall specify, in the voter information pamphlet for a bond election, a plan of finance, including:

(a) the specific project or projects for which a bond is to be issued; and

(b) a priority designation for each project.

(4) Except as provided in Subsection (5), a local school board shall ensure that qualifying general obligation bond proceeds are used to complete projects in accordance with the plan of finance described in Subsection (3).

(5) (a) After distribution to the public of the voter information pamphlet, with two-thirds majority approval of the local school board, a local school board may upon a determination of compelling circumstances adjust the plan of finance described in Subsection (3) by:

(i) changing the priority designation of a project;

(ii) adding a project that was not listed in the voter information pamphlet; or

(iii) removing a project that was listed in the voter information pamphlet.

(b) A local school board may not vote on more than one adjustment described in Subsection (5)(a) per meeting.

(6) For a qualifying general obligation bond, a local school board shall post on the local school board's website:

(a) the plan of finance as described in the voter information pamphlet; and

(b) a progress report detailing the status of the projects listed in the plan of finance, including:

(i) the status of any construction contracts related to a project;

(ii) the bid amount;

(iii) the estimated and actual construction start date;

(iv) the estimated and actual construction end date; and

(v) the final cost.

(7) (a) If a local school board violates Subsection (4), a registered voter in the

school district may file an action for an extraordinary writ to prohibit the local school board from adjusting the plan of finance without obtaining the necessary local school board approval.

(b) If a registered voter prevails in an action under Subsection (7)(a), the court shall award reasonable costs and attorney fees to the registered voter.

(c) The action described in Subsection (7)(a) may not be used to challenge the validity of a bond.

Amended by Chapter 325, 2014 General Session

53A-18-103. Consolidated school district bonds.

(1) A consolidated county school district may issue bonds, without an election, to fund, purchase, or redeem the district's outstanding indebtedness if the debt was incurred prior to consolidation and assumed by the consolidated school district.

(2) The legality, regularity, and validity of the outstanding indebtedness shall be determined in the same manner used to determine the validity of other bonds to be refunded by the board.

Enacted by Chapter 2, 1988 General Session

53A-18-104. Testing validity of bonds to be refunded -- Procedure.

If considered advisable by the local school board, the validity of any bonds intended to be refunded may be determined in the following manner:

(1) The board shall:

(a) publish a notice describing with sufficient particularity for identification the bond or bonds intended to be refunded:

(i) once a week for two successive weeks in a newspaper published in the school district; and

(ii) as required in Section 45-1-101; and

(b) post a notice for two successive weeks in three public and conspicuous places describing with sufficient particularity for identification the bond or bonds intended to be refunded.

(2) The notice shall require any person objecting to the legality, regularity, or validity of the bonds, their issue or sale, or the indebtedness represented by the bonds, to appear before the board at a specified place within the district on a specified day and time.

(3) The time may not be less than 14 nor more than 60 days after the first publication or posting of the notice.

(4) The notice shall require the person to appear at the meeting with his objections in writing, duly verified.

(5) The board shall convene at the time and place specified in the notice and receive all objections as prescribed in Subsection (4).

(6) The objections shall be filed with and preserved by the board.

(7) If no written objections are presented at the time and place specified in the notice, the board shall so certify.

(8) All persons are then prohibited from questioning in any manner or proceeding the legality, regularity, or validity of the bond or bonds, their issue or sale, or the

indebtedness represented by the bonds, and the board may then refund the bonds.

(9) Any person filing a written objection under Subsection (4) shall, within 20 days after the filing, commence appropriate legal proceedings against the board and others as may be proper parties, in the district court for the county in which the school district is situated, to challenge and determine the legality, regularity, and validity of the bond or bonds, their issue and sale, or the indebtedness represented by them.

(10) Failure to commence the proceedings within 20 days bars the person filing objections from questioning, in any manner or proceeding, the legality, regularity, or validity of the bond or bonds, their issue or sale, or the indebtedness represented by the bonds.

(11) Upon proof of failure to commence proceedings, by certificate of the clerk of the court, the board may refund the bonds.

Amended by Chapter 388, 2009 General Session

53A-18-105. Sinking fund -- Investment.

(1) The money levied and collected to create a sinking fund for the redemption of bonds issued by a local school board shall be immediately credited to a special fund.

(2) After retaining an amount sufficient to pay the principal of the bonds maturing during the year, the board shall invest the fund and any surplus as provided under Title 51, Chapter 7, State Money Management Act.

Enacted by Chapter 2, 1988 General Session

53A-18-106. Bonds a lien on property -- Levy of tax to pay bonds.

(1) Bonds issued under this chapter are a lien upon the taxable property of the school district issuing them.

(2) If the local school board neglects or refuses to cause a tax to be levied in accordance with law to meet the outstanding bonds or the interest on the bonds, the county legislative body of the county in which the district is located shall levy the tax and apply the money collected to the payment of the bonds and the interest.

Amended by Chapter 227, 1993 General Session

53A-18-107. Requirement to conduct seismic safety evaluations when issuing a bond.

(1) As used in this section:

(a) "Federal guidelines" means guidelines and procedures specified in "Rapid Visual Screening of Buildings for Potential Seismic Hazards: A Handbook, 2nd Edition" published by the United States Federal Emergency Management Agency.

(b) "Qualifying general obligation bond" means a bond:

- (i) issued pursuant to Title 11, Chapter 14, Local Government Bonding Act; and
- (ii) authorized by an election held on or after July 1, 2013.

(c) "Seismic safety evaluation" means a seismic safety rapid visual screening evaluated in accordance with federal guidelines or a more detailed seismic structural evaluation.

(2) If a school district issues a qualifying general obligation bond, the school district

shall:

(a) except as provided in Subsection (4), conduct or update a seismic safety evaluation of each school district building:

(i) constructed before 1975; and

(ii) used by the school district as a school; and

(b) provide a copy of a seismic safety evaluation prepared under Subsection (2)(a) to the Utah Seismic Safety Commission created in Section 63C-6-101.

(3) A seismic safety evaluation conducted under Subsection (2) shall be conducted by a licensed structural engineer familiar with seismic codes.

(4) A school district is not required to conduct or update a seismic safety evaluation of a building as required in Subsection (2)(a) if:

(a) a seismic safety evaluation was performed on the building within the 25-year period before the school district issues the qualifying general obligation bond; and

(b) the school district provides a copy of the school district's seismic safety evaluation described in Subsection (4)(a) to the Utah Seismic Safety Commission.

(5) Creation of a seismic safety evaluation of a school, or a list of schools needing seismic upgrades, shall not be construed as expanding or changing the state's or a school district's common law duty of care for liability purposes.

Enacted by Chapter 356, 2013 General Session

53A-19-101. Superintendent of school district as budget officer -- School district budget.

(1) The superintendent of each school district is the budget officer of the district.

(2) Prior to June 1 of each year, the superintendent shall prepare and file with the local school board a tentative budget. The tentative budget and supporting documents shall include the following items:

(a) the revenues and expenditures of the preceding fiscal year;

(b) the estimated revenues and expenditures of the current fiscal year;

(c) an estimate of the revenues for the succeeding fiscal year based upon the lowest tax levy that will raise the required revenue, using the current year's taxable value as the basis for this calculation;

(d) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and

(e) the estimated financial condition of the district by funds at the close of the current fiscal year.

(3) The tentative budget shall be filed with the district business administrator for public inspection at least 15 days prior to the date of its proposed adoption by the local school board.

Enacted by Chapter 2, 1988 General Session

53A-19-102. Local school board budget procedures.

(1) (a) Prior to June 22 of each year, a local school board shall adopt a budget and make appropriations for the next fiscal year.

(b) If the tax rate in the proposed budget exceeds the certified tax rate defined in

Section 59-2-924, the local school board shall comply with Section 59-2-919 in adopting the budget, except as provided by Section 53A-17a-133.

(2) (a) Prior to the adoption or amendment of a budget, a local school board shall hold a public hearing, as defined in Section 10-9a-103, on the proposed budget or budget amendment.

(b) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection (2)(a), at least 10 days prior to the public hearing, a local school board shall:

(i) publish a notice of the public hearing in a newspaper or combination of newspapers of general circulation in the school district, except as provided in Section 45-1-101;

(ii) publish a notice of the public hearing electronically in accordance with Section 45-1-101;

(iii) file a copy of the proposed budget with the local school board's business administrator for public inspection; and

(iv) post the proposed budget on the school district's Internet website.

(c) A notice of a public hearing on a school district's proposed budget shall include information on how the public may access the proposed budget as provided in Subsections (2)(b)(iii) and (2)(b)(iv).

(3) A local school board shall file a copy of the adopted budget with the state auditor and the State Board of Education.

Amended by Chapter 84, 2010 General Session
Amended by Chapter 135, 2010 General Session
Amended by Chapter 160, 2010 General Session

53A-19-103. Undistributed reserve in school board budget.

(1) A local school board may adopt a budget with an undistributed reserve. The reserve may not exceed 5% of the maintenance and operation budget adopted by the board in accordance with a scale developed by the State Board of Education. The scale is based on the size of the school district's budget.

(2) The board may appropriate all or a part of the undistributed reserve made to any expenditure classification in the maintenance and operation budget by written resolution adopted by a majority vote of the board setting forth the reasons for the appropriation. The board shall file a copy of the resolution with the State Board of Education and the state auditor.

(3) The board may not use undistributed reserves in the negotiation or settlement of contract salaries for school district employees.

Enacted by Chapter 2, 1988 General Session

53A-19-104. Limits on appropriations -- Estimated expendable revenue.

(1) A local school board may not make any appropriation in excess of its estimated expendable revenue, including undistributed reserves, for the following fiscal year.

(2) In determining the estimated expendable revenue, any existing deficits arising through excessive expenditures from former years are deducted from the estimated

revenue for the ensuing year to the extent of at least 10% of the entire tax revenue of the district for the previous year.

(3) In the event of financial hardships, the board may deduct from the estimated expendable revenue for the ensuing year, by fund, at least 25% of the deficit amount.

(4) All estimated balances available for appropriations at the end of the fiscal year shall revert to the funds from which they were appropriated and shall be fund balances available for appropriation in the budget of the following year.

(5) A local school board may reduce a budget appropriation at its regular meeting if notice of the proposed action is given to all board members and the district superintendent at least one week prior to the meeting.

(6) An increase in an appropriation may not be made by the board unless the following steps are taken:

(a) the board receives a written request from the district superintendent that sets forth the reasons for the proposed increase;

(b) notice of the request is published:

(i) in a newspaper of general circulation within the school district at least one week prior to the board meeting at which the request will be considered; and

(ii) in accordance with Section 45-1-101, at least one week prior to the board meeting at which the request will be considered; and

(c) the board holds a public hearing on the request prior to the board's acting on the request.

Amended by Chapter 388, 2009 General Session

53A-19-105. School district interfund transfers.

(1) A school district shall spend revenues only within the fund for which they were originally authorized, levied, collected, or appropriated.

(2) Except as otherwise provided in this section, school district interfund transfers of residual equity are prohibited.

(3) The State Board of Education may authorize school district interfund transfers of residual equity when a district states its intent to create a new fund or expand, contract, or liquidate an existing fund.

(4) The State Board of Education may also authorize school district interfund transfers of residual equity for a financially distressed district if the board determines the following:

(a) the district has a significant deficit in its maintenance and operations fund caused by circumstances not subject to the administrative decisions of the district;

(b) the deficit cannot be reasonably reduced under Section 53A-19-104; and

(c) without the transfer, the school district will not be capable of meeting statewide educational standards adopted by the State Board of Education.

(5) The board shall develop standards for defining and aiding financially distressed school districts under this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) All debt service levies not subject to certified tax rate hearings shall be recorded and reported in the debt service fund.

(b) Debt service levies under Subsection 59-2-924(3)(e)(iii) that are not subject to

the public hearing provisions of Section 59-2-919 may not be used for any purpose other than retiring general obligation debt.

(c) Amounts from these levies remaining in the debt service fund at the end of a fiscal year shall be used in subsequent years for general obligation debt retirement.

(d) Any amounts left in the debt service fund after all general obligation debt has been retired may be transferred to the capital projects fund upon completion of the budgetary hearing process required under Section 53A-19-102.

Amended by Chapter 204, 2009 General Session

53A-19-106. Warrants drawn by business administrator.

The business administrator of a local school board may not draw warrants on school district funds except in accordance with and within the limits of the budget passed by the local school board.

Enacted by Chapter 2, 1988 General Session

53A-19-107. Emergency expenditures.

This chapter does not apply to appropriations required because of emergencies involving loss of life or great loss of property.

Enacted by Chapter 2, 1988 General Session

53A-19-108. Monthly budget reports.

(1) The business administrator of each local school board shall provide each board member with a report, on a monthly basis, that includes the following information:

- (a) the amounts of all budget appropriations;
 - (b) the disbursements from the appropriations as of the date of the report; and
 - (c) the percentage of the disbursements as of the date of the report.
- (2) A copy of the report shall be available for public review.

Enacted by Chapter 2, 1988 General Session

53A-19-201. Control of school lunch revenues -- Apportionment -- Costs.

(1) School lunch revenues shall be under the control of the State Board of Education and may only be disbursed, transferred, or drawn upon by its order. The revenue may only be used to provide school lunches and a school lunch program in the state's school districts in accordance with standards established by the board.

(2) The board shall apportion the revenue according to the number of school children receiving school lunches in each school district. The State Board of Education and local school boards shall employ staff to administer and supervise the school lunch program and purchase supplies and equipment.

(3) The costs of the school lunch program shall be included in the state board's annual budget.

Enacted by Chapter 2, 1988 General Session

53A-19-301. School Breakfast Program -- Review of nonparticipants.

(1) (a) Each local school board shall, at least once every three years, review each elementary school in its district that does not participate in the School Breakfast Program as to the school's reasons for nonparticipation.

(b) (i) If the school board determines that there are valid reasons for the school's nonparticipation, no further action is needed.

(ii) Reasons for nonparticipation may include a recommendation from the school community council authorized under Section 53A-1a-108 or a similar group of parents and school employees that the school should not participate in the program.

(2) (a) After two nonparticipation reviews, a local school board may, by majority vote, waive any further reviews of the nonparticipatory school.

(b) A waiver of the review process under Subsection (2)(a) does not prohibit subsequent consideration by the local school board of an individual school's nonparticipation in the School Breakfast Program.

(3) The requirements of this section shall be nullified by the termination of the entitlement status of the School Breakfast Program by the federal government.

Enacted by Chapter 268, 1996 General Session

53A-20-100.5. Prohibition of school impact fees.

(1) As used in this section, "school impact fee" means a charge on new development in order to generate revenue for funding or recouping the costs of capital improvements for schools or school facility expansions necessitated by and attributable to the new development.

(2) Beginning March 21, 1995, there is a moratorium prohibiting a county, city, town, local school board, or any other political subdivision from imposing or collecting a school impact fee unless hereafter authorized by the Legislature by statute.

(3) Collection of any fees authorized before March 21, 1995, by any ordinance, resolution or rule of any county, city, town, local school board, or other political subdivision shall terminate on May 1, 1996, unless hereafter authorized by the Legislature by statute.

Enacted by Chapter 283, 1995 General Session

53A-20-101. Construction and alteration of schools and plants -- Advertising for bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards -- Interest of local school board members.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(2) (a) Prior to the construction of any school or the alteration of any existing school plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school board shall advertise for bids on the project at least 10 days before the bid due date.

(b) The board shall have the advertisement published in a newspaper having general circulation throughout the state and in appropriate construction trade publications that offer free listings.

(c) A similar advertisement is required in a newspaper published or having general circulation in any city or county that would be affected by the proposed project.

(d) The advertisement shall:

(i) require sealed proposals for the building project in accordance with plans and specifications furnished by the local school board;

(ii) state where and when the proposals will be opened and shall reserve the right of the board to reject any and all proposals; and

(iii) require a certified check or bid bond of not less than 5% of the bid to accompany the bid.

(3) (a) The board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.

(b) If satisfactory bids are received, the board shall award the contract to the lowest responsible bidder.

(c) If none of the proposals are satisfactory, all shall be rejected.

(d) The board shall again advertise in the manner provided in this section.

(e) If, after advertising a second time no satisfactory bid is received, the board may proceed under its own direction with the required project.

(4) (a) The check or bond required under Subsection (2)(d) shall be drawn in favor of the local school board.

(b) If the successful bidder fails or refuses to enter into the contract and furnish the additional bonds required under this section, then the bidder's check or bond is forfeited to the district.

(5) A local school board shall require payment and performance bonds of the successful bidder as required in Section 63G-6a-1103.

(6) (a) A local school board may require in the proposed contract that up to 5% of the contract price be withheld until the project is completed and accepted by the board.

(b) If money is withheld, the board shall place it in an interest bearing account, and the interest accrues for the benefit of the contractor and subcontractors.

(c) This money shall be paid upon completion of the project and acceptance by the board.

(7) (a) A local school board may not bid on projects within the district if the total accumulative estimated cost exceeds \$80,000.

(b) The board may use its resources if no satisfactory bids are received under this section.

(8) If the local school board determines in accordance with Section 63G-6a-1302 to use a construction manager/general contractor as its method of construction contracting management on projects where the total estimated accumulative cost exceeds \$80,000, it shall select the construction manager/general contractor in accordance with the requirements of Title 63G, Chapter 6a, Utah Procurement Code.

(9) A local school board member may not have a direct or indirect financial interest in the construction project contract.

Amended by Chapter 86, 2012 General Session
Amended by Chapter 347, 2012 General Session

53A-20-101.5. Restrictions on local school district procurement of

architect-engineer services.

(1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) When a local school district elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the state agency's competitive procurement process; and

(b) the local school district may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

Enacted by Chapter 21, 2000 General Session

53A-20-103. School plant capital outlay report.

(1) The State Board of Education shall prepare an annual school plant capital outlay report of all school districts, which includes information on the number and size of building projects completed and under construction.

(2) A school district or charter school shall prepare and submit an annual school plant capital outlay report in accordance with Section 63A-3-402.

Amended by Chapter 64, 2014 General Session

53A-20-104. Enforcement of chapter by state superintendent -- Employment of personnel -- School districts and charter schools -- Certificate of inspection verification.

(1) The state superintendent of public instruction shall enforce this chapter.

(2) The superintendent may employ architects or other qualified personnel, or contract with the State Building Board, the state fire marshal, or a local governmental entity to:

(a) examine the plans and specifications of any school building or alteration submitted under this chapter;

(b) verify the inspection of any school building during or following construction; and

(c) perform other functions necessary to ensure compliance with this chapter.

(3) (a) (i) If a local school board uses the school district's building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and issues its own certificate authorizing permanent occupancy of the school building, the local school board shall file a certificate of inspection verification with the local governmental entity's building official and the State Office of Education, advising those entities that the school district has complied with the inspection provisions of this chapter.

(ii) If a charter school uses a school district building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and the school district issues to the charter school a certificate authorizing permanent occupancy of the school building, the charter school shall file with the State Office of Education a certificate of inspection verification.

(iii) If a local school board or charter school uses a local governmental entity's

building inspector under Subsection 10-9a-305(6)(a)(i) or 17-27a-305(6)(a)(i) and the local governmental entity issues the local school board or charter school a certificate authorizing permanent occupancy of the school building, the local school board or charter school shall file with the State Office of Education a certificate of inspection verification.

(iv) (A) If a local school board or charter school uses an independent, certified building inspector under Subsection 10-9a-305(6)(a)(iii) or 17-27a-305(6)(a)(iii), the local school board or charter school shall, upon completion of all required inspections of the school building, file with the State Office of Education a certificate of inspection verification and a request for the issuance of a certificate authorizing permanent occupancy of the school building.

(B) Upon the local school board's or charter school's filing of the certificate and request as provided in Subsection (3)(a)(iv)(A), the school district or charter school shall be entitled to temporary occupancy of the school building that is the subject of the request for a period of 90 days, beginning the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code requirements.

(C) Within 30 days after the local school board or charter school files a request under Subsection (3)(a)(iv)(A) for a certificate authorizing permanent occupancy of the school building, the state superintendent of public instruction shall:

(I) (Aa) issue to the local school board or charter school a certificate authorizing permanent occupancy of the school building; or

(Bb) deliver to the local school board or charter school a written notice indicating deficiencies in the school district's or charter school's compliance with the inspection provisions of this chapter; and

(II) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local governmental entity in which the school building is located.

(D) Upon the local school board or charter school remedying the deficiencies indicated in the notice under Subsection (3)(a)(iv)(C)(I)(Bb) and notifying the state superintendent of public instruction that the deficiencies have been remedied, the state superintendent of public instruction shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located.

(E) (I) The state superintendent of public instruction may charge the school district or charter school a fee for an inspection that the superintendent considers necessary to enable the superintendent to issue a certificate authorizing permanent occupancy of the school building.

(II) A fee under Subsection (3)(a)(iv)(E)(I) may not exceed the actual cost of performing the inspection.

(b) For purposes of this Subsection (3):

(i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and

(ii) "certificate of inspection verification" means a standard inspection form developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.

Amended by Chapter 290, 2008 General Session

53A-20-104.5. School building construction and inspection manual -- Annual construction and inspection conference -- Verification of school construction inspections.

(1) (a) The State Board of Education, through the state superintendent of public instruction, shall develop and distribute to each school district a school building construction and inspection resource manual.

(b) The manual shall be provided to a charter school upon request of the charter school.

(2) (a) The manual shall include:

(i) current legal requirements; and

(ii) information on school building construction and inspections, including the guidelines adopted by the State Board of Education in accordance with Section 53A-20-110.

(b) The state superintendent shall review and update the manual at least once every three years.

(3) The board shall provide for an annual school construction conference to allow a representative from each school district and charter school to:

(a) receive current information on the design, construction, and inspection of school buildings;

(b) receive training on such matters as:

(i) using properly certified building inspectors;

(ii) filing construction inspection summary reports and the final inspection certification with the local governmental authority's building official;

(iii) the roles and relationships between a school district or charter school and the local governmental authority, either a county or municipality, as related to the construction and inspection of school buildings; and

(iv) adequate documentation of school building inspections; and

(c) provide input on any changes that may be needed to improve the existing school building inspection program.

(4) The board shall develop a process to verify that inspections by qualified inspectors occur in each school district or charter school.

Amended by Chapter 309, 2014 General Session

53A-20-105. Licensed architect to prepare plans.

A licensed architect shall prepare the plans and specifications for the construction or alteration of school buildings.

Enacted by Chapter 2, 1988 General Session

53A-20-106. Power of board regarding expected federal aid to build schools.

For the purpose of participating in any program of assistance by the government of the United States designed to aid the various states, their political subdivisions and their educational agencies and institutions in providing adequate educational buildings and

facilities, the State Board of Education, with the approval of the governor, may do the following:

(1) It may develop and implement plans relating to the building of educational buildings for the use and benefit of school districts and educational institutions and agencies of the state. These plans may conform to the requirements of federal legislation to such extent as the board finds necessary to qualify the state and its educational subdivisions, agencies, and institutions for federal educational building grants-in-aid.

(2) It may enter into agreements on behalf of the state, its school districts, and its educational agencies and institutions with the federal government and its agencies, and with the school districts, educational agencies, and institutions of the state, as necessary to comply with federal legislation and to secure for them rights of participation as necessary to fulfill the educational building needs of the state.

(3) It may accept, allocate, disburse, and otherwise deal with federal funds or other assets that are available for buildings from any federal legislation or program of assistance among the school districts, public educational agencies, and other public institutions eligible to participate in those programs.

Enacted by Chapter 2, 1988 General Session

53A-20-108. Notification to local government of intent to purchase school site or construction of school building -- Negotiation of fees -- Confidentiality.

(1)(a) A school district or charter school shall notify the affected local governmental entity without delay prior to the purchase of a school site or construction of a school building of its intent to purchase or construct.

(b) Representatives of the local governmental entity and the school district or charter school shall meet as soon as possible after delivery of the notice under Subsection (1)(a) to:

(i) discuss concerns that each may have, including potential community impacts and site safety;

(ii) assess the availability of infrastructure for the site; and

(iii) discuss any fees that might be charged by the local governmental entity in connection with a building project.

(2) Representatives of the local governmental entity and the school district or charter school shall meet as soon as possible after the purchase of a school site to discuss concerns that each may have, including potential community impacts, and to negotiate any fees that might be charged by the local governmental entity in connection with a building project.

(3) A local governmental entity may not increase a previously agreed-upon fee after the district or charter school has signed contracts to begin construction.

(4) Prior to the filing of a formal application by the affected school district or charter school, a local governmental entity may not disclose information obtained from a school district or charter school regarding the district's or charter school's consideration of, or intent to, purchase a school site or construct a school building, without first obtaining the consent of the district or charter school.

Amended by Chapter 7, 2005 General Session

53A-20-109. Required contract terms.

A contract for the construction of a school building shall contain a clause that addresses the rights of the parties when, after the contract is executed, site conditions are discovered that:

- (1) the contractor did not know existed, and could not have reasonably known existed, at the time that the contract was executed; and
- (2) materially impacts the costs of construction.

Enacted by Chapter 330, 2012 General Session

53A-20-110. Board to adopt public school construction guidelines.

(1) As used in this section:

- (a) "Board" means the State Board of Education.
- (b) "Public school construction" means construction work on a new public school.

(2) (a) The board shall:

- (i) adopt guidelines for public school construction; and
- (ii) consult with the Division of Facilities Construction and Management Administration on proposed guidelines before adoption.

(b) The board shall ensure that guidelines adopted under Subsection (2)(a)(i) maximize funds used for public school construction and reflect efficient and economic use of those funds, including adopting guidelines that address a school's essential needs rather than encouraging or endorsing excessive costs per square foot of construction or nonessential facilities, design, or furnishings.

(3) Before a school district or charter school may begin public school construction, the school district or charter school shall:

- (a) review the guidelines adopted by the board under this section; and
- (b) take into consideration the guidelines when planning the public school construction.

(4) In adopting the guidelines for public school construction, the board shall consider the following and adopt alternative guidelines as needed:

(a) location factors, including whether the school is in a rural or urban setting, and climate factors;

(b) variations in guidelines for significant or minimal projected student population growth;

(c) guidelines specific to schools that serve various populations and grades, including high schools, junior high schools, middle schools, elementary schools, alternative schools, and schools for people with disabilities; and

(d) year-round use.

(5) The guidelines shall address the following:

- (a) square footage per student;
- (b) minimum and maximum required real property for a public school;
- (c) athletic facilities and fields, playgrounds, and hard surface play areas;
- (d) cost per square foot;
- (e) minimum and maximum qualities and costs for building materials;
- (f) design efficiency;
- (g) parking;

- (h) furnishing;
- (i) proof of compliance with applicable building codes; and
- (j) safety.

Enacted by Chapter 309, 2014 General Session

53A-20b-101. Title.

This chapter is known as the "Charter School Financing Act."

Amended by Chapter 201, 2012 General Session

53A-20b-102. Definitions.

As used in this chapter:

(1) "Annual charter school enrollment" means the total enrollment of all students in the state enrolled in a charter school in grades kindergarten through grade 12, based on October 1 enrollment counts.

(2) "Annual state enrollment" means the total enrollment of all students in the state enrolled in a public school in grades kindergarten through grade 12, based on October 1 enrollment counts.

(3) "Authority" means the Utah Charter School Finance Authority created by this part.

(4) "Board" means the governing board of the authority described in Section 53A-20b-103.

(5) "Charter school" means a school created under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act.

(6) "Credit enhancement program" means the Charter School Credit Enhancement Program established in Part 2, Charter School Credit Enhancement Program.

(7) "Debt service reserve fund" means the reserve fund created or established by, or for the benefit of, a qualifying charter school for the purpose of paying principal of and interest on bonds issued under the credit enhancement program as the payments become due and other money of the qualifying charter school is not available to make the payments.

(8) "Debt service reserve fund requirement" means, as of a particular date of computation, and with respect to a particular issue of bonds, the amount required to be on deposit in the debt service reserve fund, which amount:

(a) may be a sum certain or as set forth in a formula; and

(b) may not be less than the maximum annual debt service requirement for the related bonds.

(9) (a) "Obligations" mean any notes, debentures, revenue bonds, or other evidences of financial indebtedness, except as provided in Subsection (9)(b).

(b) "Obligations" do not include general obligation bonds.

(10) "Project" means:

(a) any building, structure, or property owned, to be acquired, or used by a charter school for any of its educational purposes and the related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities, and lands; or

(b) any capital equipment owned, to be acquired, or used by a charter school for

any of its educational purposes, interests in land, and grounds, together with the personal property necessary, convenient, or appurtenant to them.

(11) "Qualifying charter school" means a charter school that:

(a) meets standards adopted by the authority for participation in the credit enhancement program; and

(b) is designated by the authority as a qualifying charter school for purposes of participation in the credit enhancement program.

(12) "Reserve account" means the Charter School Reserve Account created in Section 53A-20b-301.

Amended by Chapter 201, 2012 General Session

53A-20b-103. Utah Charter School Finance Authority created -- Members -- Compensation -- Services.

(1) There is created a body politic and corporate known as the Utah Charter School Finance Authority. The authority is created to provide an efficient and cost-effective method of financing charter school facilities.

(2) The governing board of the authority shall be composed of:

(a) the governor or the governor's designee;

(b) the state treasurer; and

(c) the state superintendent of public instruction or the state superintendent's designee.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) Upon request, the State Board of Education shall provide staff support to the authority.

Amended by Chapter 201, 2012 General Session

53A-20b-104. Powers and duties of authority.

(1) The authority shall have perpetual succession as a body politic and corporate.

(2) The authority may:

(a) sue and be sued in its own name;

(b) have, and alter at will, an official seal;

(c) contract with experts, advisers, consultants, and agents for needed services;

(d) receive and accept aid or contributions from any source, including the United States or this state, in the form of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this part, subject to the conditions upon which the aid and contributions are made, for any purpose consistent with this part;

(e) exercise the powers granted to municipalities and counties pursuant to Title 11, Chapter 17, Utah Industrial Facilities and Development Act, including the power to borrow money and issue obligations, including refunding obligations, subject to the same

limitations as that imposed on a municipality or county under the act, except:

(i) the authority may only exercise powers under the act to finance or refinance a project as defined in Section 53A-20b-102; and

(ii) the authority's area of operation shall include all areas of the state;

(f) employ advisers, consultants, and agents, including financial experts, independent legal counsel, and any advisers, consultants, and agents as may be necessary in its judgment and fix their compensation;

(g) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(h) in accordance with Section 53A-20b-201, designate a charter school as a qualifying charter school for purposes of participation in the credit enhancement program; and

(i) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this chapter.

(3) Except as provided in Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority may not exercise power in any manner which would create general or moral obligations of the state or of any agency, department, or political subdivision of the state.

Amended by Chapter 201, 2012 General Session

53A-20b-105. Limited obligations.

Except as provided in Part 2, Charter School Credit Enhancement Program, bonds, notes, and other obligations issued by the authority:

(1) do not constitute a debt, moral obligation, or liability of the state, or of any county, city, town, school district, or any other political subdivision of the state;

(2) do not constitute the loan of credit of the state or of any county, city, town, school district, or any other political subdivision of the state; and

(3) may not be paid from funds other than loan payments or lease revenues received from a charter school or other funds pledged by a charter school.

Amended by Chapter 201, 2012 General Session

53A-20b-106. State to succeed to property of authority when encumbrances paid or authority dissolved.

(1) If the authority is dissolved at any time, for any reason, all funds, property, rights, and interests of the authority, following the satisfaction of the authority's obligations, shall immediately vest in and become the property of the state, which shall succeed to all rights of the authority subject to any encumbrances which may then exist on any particular properties.

(2) None of the net earnings of the authority shall inure to the benefit of any private person.

Enacted by Chapter 167, 2007 General Session

53A-20b-201. Charter School Credit Enhancement Program -- Standards for

the designation of qualifying charter schools -- Debt service reserve fund requirements.

(1) There is created the Charter School Credit Enhancement Program to assist qualifying charter schools in obtaining favorable financing by providing a means of replenishing a qualifying charter school's debt service reserve fund.

(2) The authority shall establish standards for a charter school to be designated as a qualifying charter school.

(3) In establishing the standards described in Subsection (2) the authority shall consider:

(a) whether a charter school has received an investment grade rating, independent of any rating enhancement resulting from the issuance of bonds pursuant to the credit enhancement program;

(b) the location of the charter school's project;

(c) the operating history of the charter school;

(d) the financial strength of the charter school; and

(e) any other criteria the authority determines are relevant.

(4) The bonds issued by the authority for a qualifying charter school are not an indebtedness of the state or of the authority but are special obligations payable solely from:

(a) the revenues or other funds pledged by the qualifying charter school; and

(b) amounts appropriated by the Legislature pursuant to Subsection (9).

(5) The authority shall notify the authorizer of a charter school that the charter school is participating in the credit enhancement program if the authority:

(a) designates the charter school as a qualifying charter school; and

(b) issues bonds for the qualifying charter school under the credit enhancement program.

(6) One or more debt service reserve funds shall be established for a qualifying charter school with respect to bonds issued pursuant to the credit enhancement program.

(7) (a) Except as provided in Subsection (7)(b), money in a debt service reserve fund may not be withdrawn from the debt service reserve fund if the amount withdrawn would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement.

(b) So long as the applicable bonds issued under the credit enhancement program remain outstanding, money in a debt service reserve fund may be withdrawn in an amount that would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement if the money is withdrawn for the purpose of:

(i) paying the principal of, redemption price of, or interest on a bond when due and if no other money of the qualifying charter school is available to make the payment, as determined by the authority; or

(ii) paying any redemption premium required to be paid when the bonds are redeemed prior to maturity if no bonds will remain outstanding upon payment from the funds in the qualifying charter school's debt service reserve fund.

(8) Money in a qualifying charter school's debt service reserve fund that exceeds the debt service reserve fund requirement may be withdrawn by the qualifying charter school.

(9) (a) The authority shall annually, on or before December 1, certify to the governor the amount, if any, required to restore amounts on deposit in the debt service reserve

funds of qualifying charter schools to the respective debt service reserve fund requirements.

(b) The governor shall request from the Legislature an appropriation of the certified amount to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

(c) The Legislature may appropriate money to the authority to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

(d) A qualifying charter school that receives money from an appropriation to restore amounts on deposit in a debt service reserve fund to the debt service reserve fund requirement, shall repay the state at the time and in the manner as the authority shall require.

(10) The authority may create and establish other funds for its purposes.

Amended by Chapter 363, 2014 General Session

53A-20b-202. Charter School Reserve Account contribution requirements for qualifying charter schools.

(1) When bonds are issued under the credit enhancement program for a qualifying charter school, the qualifying charter school shall contribute money to the reserve account in the amount determined as provided in Subsection (2).

(2) The authority shall determine the up-front and ongoing requirements for contributions of money to the reserve account for each qualifying charter school.

Enacted by Chapter 201, 2012 General Session

53A-20b-203. Bond issuance.

(1) (a) The state may not alter, impair, or limit the rights of bondholders or persons contracting with a qualifying charter school until the bonds, including interest and other contractual obligations, are fully met and discharged.

(b) Nothing in this chapter precludes an alteration, impairment, or limitation if provision is made by law for the protection of bondholders or persons entering into contracts with a qualifying charter school.

(2) The authority may require a qualifying charter school to vest in the authority the right to enforce any covenant made to secure bonds issued under the credit enhancement program by making appropriate provisions in the indenture related to the qualifying charter school's bonds.

(3) The authority may require a qualifying charter school to make covenants and agreements in indentures or in a reimbursement agreement to protect the interests of the state and to secure repayment to the state of any money received by the qualifying charter school from an appropriation to restore amounts deposited in the qualifying charter school's debt service reserve fund to the debt service reserve fund requirement.

(4) The authority may charge a fee to administer the issuance of bonds for a qualifying charter school.

Enacted by Chapter 201, 2012 General Session

53A-20b-204. Limitation on participation in Charter School Credit Enhancement Program.

(1) In accordance with Subsection (2), on or before January 1 of each year, the authority shall determine the credit enhancement program's bond issuance limitation.

(2) The authority may not issue bonds for a qualifying charter school under the credit enhancement program if the total par amount outstanding under the program would exceed an amount equal to the product of:

(a) 1.3;

(b) an amount equal to the quotient of:

(i) annual charter school enrollment; divided by

(ii) annual state enrollment; and

(c) the total par amount then outstanding under the school bond guarantee program established in Chapter 28, Utah School Bond Guaranty Act.

Enacted by Chapter 201, 2012 General Session

53A-20b-301. Charter School Reserve Account.

(1) There is created within the Education Fund a restricted account known as the "Charter School Reserve Account."

(2) The reserve account consists of:

(a) money credited to the account pursuant to Section 53A-20b-202;

(b) money appropriated to the account by the Legislature;

(c) all income and interest derived from the deposit and investment of money in the account;

(d) federal grants; and

(e) private donations.

(3) Money in the reserve account may be appropriated by the Legislature to:

(a) restore amounts on deposit in a debt service reserve fund of a qualifying charter school to the debt service reserve fund requirement;

(b) pay fees and expenses of the authority;

(c) pay the principal of and interest on bonds issued for a qualifying charter school; or

(d) otherwise provide financial assistance to a qualifying charter school.

Enacted by Chapter 201, 2012 General Session

53A-21-101. Title.

This chapter is known as the "Public Education Capital Outlay Act."

Repealed and Re-enacted by Chapter 326, 1996 General Session

53A-21-101.5. Definitions.

As used in this chapter:

(1) "ADM" or "pupil in average daily membership" is as defined in Section 53A-17a-103.

(2) "Base tax effort rate" means the average of:

- (a) the highest combined capital levy rate; and
- (b) the average combined capital levy rate for the school districts statewide.
- (3) "Combined capital levy rate" means a rate that includes the sum of the following property tax levies:
 - (a) (i) the capital outlay levy authorized in Section 53A-16-107;
 - (ii) the portion of the 10% of basic levy described in Section 53A-17a-145 that is budgeted for debt service or capital outlay;
 - (iii) the debt service levy authorized in Section 11-14-310; and
 - (iv) the voted capital outlay leeway authorized in Section 53A-16-110; or
 - (b) (i) the capital local levy authorized in Section 53A-16-113; and
 - (ii) the debt service levy authorized in Section 11-14-310.
- (4) "Derived net taxable value" means the quotient of:
 - (a) the total property tax collections from April 1 through the following March 31 for a school district for the calendar year preceding the March 31 date; divided by
 - (b) the school district's total tax rate for the calendar year preceding the March 31 referenced in Subsection (4)(a).
- (5) "Highest combined capital levy rate" means the highest combined capital levy rate imposed by a school district within the state for a fiscal year.
- (6) "Property tax base per ADM" means the quotient of:
 - (a) a school district's derived net taxable value; divided by
 - (b) the school district's ADM.
- (7) "Property tax yield per ADM" means:
 - (a) the product of:
 - (i) a school district's derived net taxable value; and
 - (ii) the base tax effort rate; divided by
 - (b) the school district's ADM.
- (8) "Statewide average property tax base per ADM" means the quotient of:
 - (a) the sum of all school districts' derived net taxable value; divided by
 - (b) the sum of all school districts' ADM.

Amended by Chapter 371, 2011 General Session

53A-21-102. Capital outlay programs -- Use of funds.

A school district may only use the money provided under this chapter for school district capital outlay and debt service purposes.

Amended by Chapter 236, 2008 General Session

53A-21-201. Capital Outlay Foundation Program -- Creation -- Definitions.

- (1) There is created the Capital Outlay Foundation Program to provide capital outlay funding to a school district based on a district's local property tax effort and property tax yield per student compared to a foundation guarantee funding level.
- (2) As used in this part:
 - (a) "Foundation guarantee level per ADM" means a minimum revenue amount per ADM generated by the base tax effort rate, including the following:
 - (i) the revenue generated locally from a school district's combined capital levy rate;

and

(ii) the revenue allocated to a school district by the State Board of Education in accordance with Section 53A-21-202.

(b) "Qualifying school district" means a school district with a property tax yield per ADM less than the foundation guarantee level per ADM.

(3) "Small school district" means a school district that has fewer than 1,000 pupils in average daily membership.

Amended by Chapter 185, 2010 General Session

53A-21-202. Capital Outlay Foundation Program -- Distribution formulas -- Allocations.

(1) (a) The State Board of Education shall determine the foundation guarantee level per ADM that fully allocates the funds appropriated to the State Board of Education for distribution under this section.

(b) In determining the foundation guarantee level per ADM and a school district's allocation of funds under this part, the State Board of Education shall use data from the fiscal year that is two years prior to the fiscal year the school district receives the allocation, including the:

- (i) number of pupils in average daily membership;
- (ii) tax rates; and
- (iii) derived net taxable value.

(2) By June 1, a county treasurer shall report to the State Board of Education the actual collections of property taxes in the school districts located within the county treasurer's county for the period beginning April 1 through the following March 31 immediately preceding that June 1.

(3) If a qualifying school district imposes a combined capital levy rate that is greater than or equal to the base tax effort rate, the State Board of Education shall allocate to the qualifying school district an amount equal to the product of the following:

(a) the qualifying school district's ADM; and

(b) an amount equal to the difference between the following:

(i) the foundation guarantee level per ADM, as determined in accordance with Subsection (1); and

(ii) the qualifying school district's property tax yield per ADM.

(4) If a qualifying school district imposes a combined capital levy rate less than the base tax effort rate, the State Board of Education shall allocate to the qualifying school district an amount equal to the product of the following:

(a) the qualifying school district's ADM;

(b) an amount equal to the difference between the following:

(i) the foundation guarantee level per ADM; and

(ii) the qualifying school district's property tax yield per ADM; and

(c) a percentage equal to:

(i) the qualifying school district's combined capital levy rate; divided by

(ii) the base tax effort rate.

(5) (a) The State Board of Education shall allocate:

(i) a minimum of \$200,000 to each small school district with a property tax base per

ADM less than or equal to the statewide average property tax base per ADM;

(ii) a minimum of \$100,000 to each small school district with a property tax base per ADM that is:

(A) greater than the statewide average property tax base per ADM; and

(B) less than or equal to two times the statewide average property tax base per ADM; and

(iii) a minimum of \$50,000 to each small school district with a property tax base per ADM that is:

(A) greater than two times the statewide average property tax base per ADM; and

(B) less than or equal to five times the statewide average property tax base per ADM.

(b) The State Board of Education shall incorporate the minimum allocations described in Subsection (5)(a) in its calculation of the foundation guarantee level per ADM determined in accordance with Subsection (1).

Amended by Chapter 185, 2010 General Session

53A-21-301. Capital Outlay Enrollment Growth Program -- Definitions.

(1) There is created the Capital Outlay Enrollment Growth Program to provide capital outlay funding to school districts experiencing net enrollment increases.

(2) As used in this part:

(a) "Average annual net enrollment increase" means the quotient of:

(i) (A) enrollment in the prior fiscal year, based on October 1 enrollment counts; minus

(B) enrollment in the year four years prior, based on October 1 enrollment counts; divided by

(ii) three.

(b) "Eligible district" or "eligible school district" means a school district that:

(i) has an average annual net enrollment increase; and

(ii) has a property tax base per ADM in the year two years prior that is less than two times the statewide average property tax base per ADM in the year two years prior.

Amended by Chapter 185, 2010 General Session

53A-21-302. Capital Outlay Enrollment Growth Program -- Distribution formulas -- Allocations.

(1) For fiscal years beginning on or after July 1, 2008, the State Board of Education shall annually allocate appropriated funds to eligible school districts in accordance with Subsection (2).

(2) The State Board of Education shall allocate to an eligible school district an amount equal to the product of:

(a) the quotient of:

(i) the eligible school district's average annual net enrollment increase; divided by

(ii) the sum of the average annual net enrollment increase in all eligible school districts; and

(b) the total amount appropriated for the Capital Outlay Enrollment Growth Program

in that fiscal year.

Enacted by Chapter 236, 2008 General Session

53A-21-401. School Building Revolving Account -- Access to the account.

(1) (a) There is created within the Uniform School Fund a restricted account known as the "School Building Revolving Account" to provide short-term help to school districts to meet district needs for school building construction and renovation.

(b) The state superintendent of public instruction shall administer the School Building Revolving Account in accordance with rules adopted by the State Board of Education.

(2) The State Board of Education may not allocate funds from the School Building Revolving Account that exceed a school district's bonding limit minus its outstanding bonds.

(3) In order to receive money from the School Building Revolving Account, a school district shall:

(a) levy a combined capital levy rate of at least .0024;

(b) contract with the state superintendent of public instruction to repay the money, with interest at a rate established by the state superintendent, within five years of receipt, using future state capital outlay allocations, local revenues, or both;

(c) levy sufficient ad valorem taxes under Section 11-14-310 to guarantee annual loan repayments, unless the state superintendent of public instruction alters the payment schedule to improve a hardship situation; and

(d) meet any other condition established by the State Board of Education pertinent to the loan.

(4) (a) The state superintendent shall establish a committee, including representatives from state and local education entities, to:

(i) review requests by school districts for loans under this section; and

(ii) make recommendations regarding approval or disapproval of the loan applications to the state superintendent.

(b) If the committee recommends approval of a loan application under Subsection (4)(a)(ii), the committee's recommendation shall include:

(i) the recommended amount of the loan;

(ii) the payback schedule; and

(iii) the interest rate to be charged.

Amended by Chapter 30, 2011 General Session

Amended by Chapter 303, 2011 General Session

53A-22-101. Purpose of chapter.

It is the purpose of this chapter to provide school districts with the ability to raise funds for necessary new school construction, including additions to existing school buildings caused by the development of industrial plants that require large numbers of workers for their construction and operation.

Enacted by Chapter 2, 1988 General Session

53A-22-102. New industrial plants in school district -- Duty of school district.

A school district confronted with actual or anticipated large increases in enrollment because of the construction of a new industrial plant or plants to a degree that new buildings or additions to existing buildings are required shall make the following efforts to raise funds to meet those building needs:

- (1) bond to its maximum capacity and maintain maximum bonding by rebonding at least once every other year until building needs are met;
- (2) maintain an annual property tax levy for capital outlay and debt service combined of not less than .0036 per dollar of taxable value; and
- (3) initiate any action necessary to qualify for any state, federal, or other funds for capital outlay for which the district may be eligible.

Enacted by Chapter 2, 1988 General Session

53A-22-103. Funds raised -- Highest priority projects.

(1) Funds raised by the school district in accordance with this chapter shall be used on the highest priority projects established by the district's five-year comprehensive capital outlay plan, which shall be approved by the State Board of Education.

(2) The plan must include appropriate priorities for the construction of minimal facilities for new students.

(3) If priority use of the funds raised by the district in accordance with this chapter does not provide minimal facilities as defined by the State Board of Education for students in any new and remote community established in the district, or for students in existing communities because of the location of new or expanded industries in the area, the district may enter into lease-purchase agreements or lease with option to purchase agreements with private builders to furnish the minimal facilities required by the district and approved by the State Board of Education.

(4) The district may make payments on these agreements from any of its otherwise uncommitted capital outlay funds.

Enacted by Chapter 2, 1988 General Session

53A-22-104. Minimal school facilities -- Lease-purchase or lease with option to purchase agreement authorized.

(1) If a school district is unable to find any private builder who is capable of furnishing minimal school facilities in new or existing communities, on terms acceptable to the district and to the State Board of Education, the developers of the industrial plant, or plants, may agree to provide minimal school facilities under a lease-purchase agreement or lease with option to purchase agreement with the district.

(2) The district shall pay the developers according to the terms of the agreement from sources listed for such payments in this chapter.

Enacted by Chapter 2, 1988 General Session

53A-22-105. Remote industrial plant requiring new school building -- Construction permit requirements.

A state officer or local governmental official may not issue a construction permit or other authorization for the construction of a remote industrial plant requiring the provision of a new community, including new public elementary and secondary school buildings, until the local school board of the district in which the plant will be located has certified to the state office or local official, in writing, that the district has obtained the funds, or a firm commitment that funds will be made available as necessary, to build the required minimal school facilities.

Enacted by Chapter 2, 1988 General Session

53A-22-106. Rules and regulations authorized.

The State Board of Education shall adopt all standards and rules necessary for the administration and enforcement of this chapter.

Enacted by Chapter 2, 1988 General Session

53A-23-101. School board reserve fund.

Each local school board may establish and maintain a reserve fund to accumulate funds to meet the capital outlay costs of the school district, including costs for planning, constructing, replacing, improving, equipping, and furnishing school buildings and purchasing school sites.

Enacted by Chapter 2, 1988 General Session

53A-23-102. Revenues to be allocated to fund.

A local school board may annually allocate to the fund any revenues from the state which are made available for capital outlay purposes, and not otherwise earmarked, and such other revenues as the school district may raise locally for this purpose.

Enacted by Chapter 2, 1988 General Session

53A-23-103. Building Reserve Fund -- Investment of fund.

(1) The fund shall be known as the Building Reserve Fund of _____ (name of school district) School District.

(2) Any interest or capital gains accrue to the benefit of the fund.

(3) The fund may only be invested as provided in Title 51, Chapter 7, the State Money Management Act of 1974.

Enacted by Chapter 2, 1988 General Session

53A-23-104. Accumulations -- Expenditures from fund -- Public notice -- Transfer to other funds.

(1) The money in the fund shall accumulate from year to year.

(2) However, the local school board may make expenditures from the fund if public notice is given stating the purpose for which the expenditures are to be made.

(3) The procedure for giving public notice is set forth in Section 53A-19-102.

- (4) Expenditures shall be made for capital outlay costs only.
- (5) Money in the fund at the end of the year shall remain intact and may not be transferred to any other fund or used for any other purpose.

Enacted by Chapter 2, 1988 General Session

53A-24-101. Short title.

This chapter is known as the "State Office of Rehabilitation Act."

Repealed and Re-enacted by Chapter 83, 1988 General Session

53A-24-102. Definitions.

As used in this chapter:

- (1) "Board" means the State Board of Education.
- (2) "DDDS" means the Division of Disability Determination Services.
- (3) "Disability" means a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in materially limiting an individual's activities or functioning.
- (4) "DRS" means the Division of Rehabilitation Services.
- (5) "DSBVI" means the Division of Services for the Blind and Visually Impaired.
- (6) "DSDHH" means the Division of Services to the Deaf and Hard of Hearing.
- (7) "Eligible individual" means an individual determined to be eligible to receive services under laws or rules governing eligibility for the program in question.
- (8) "Executive director" means the executive director of the Utah State Office of Rehabilitation.
- (9) "Independent living rehabilitation services" means goods and services reasonably necessary to enable an individual with a severe disability to maintain or increase functional independence.
- (10) "Office" means the Utah State Office of Rehabilitation.
- (11) "Vocational rehabilitation services" means goods and services reasonably necessary to enable an individual with a disability to obtain and retain employment.

Amended by Chapter 5, 2001 Special Session 1

53A-24-103. Creation -- Responsibilities.

- (1) There is created the Utah State Office of Rehabilitation under the policy direction of the State Board of Education and under the direction and general supervision of the superintendent of public instruction.
- (2) The board is the sole state agency designated to administer the state plans for vocational rehabilitation and independent living rehabilitation programs.
- (3) The office is the state unit designated to carry out the state plans and other duties assigned by law or the board.

Amended by Chapter 5, 2001 Special Session 1

53A-24-104. Appointment of executive director -- Administration of the office.

(1) The executive officer of the board shall appoint the executive director of the office with the approval of the board.

(2) The executive director shall administer the office in accordance with the direction of the executive officer of the board, policies of the board, and applicable state and federal laws and regulations.

Repealed and Re-enacted by Chapter 83, 1988 General Session

53A-24-105. Functions of the office.

The office may:

(1) apply for, receive, administer, and distribute funds made available through programs of federal or state governments;

(2) cooperate with federal or state governmental entities to administer programs and program funds;

(3) contract or cooperate with public or private entities or individuals;

(4) if designated by the responsible authority, and with the approval of the board, perform any functions or services for the federal or state government that relate to individuals with disabilities;

(5) establish subordinate administrative units necessary to increase efficiency and improve the delivery of services to individuals with disabilities;

(6) establish and operate community service centers, rehabilitation facilities, and workshops, and make grants to public and nonprofit organizations for those purposes;

(7) determine eligibility for, and the nature and scope of, services to be provided under the state plan for vocational rehabilitation or other programs administered by the office;

(8) assist individuals with severe disabilities to establish and operate vending machine services and other small businesses, and perform services authorized under Title 55, Chapter 5, Blind Persons Operating Vending Stands, and Chapter 5a, Blind Product Sales;

(9) furnish materials, tools, equipment, initial stocks and supplies, and occupational licenses needed by rehabilitation facilities, workshops, and small businesses established under this chapter, and develop and execute marketing plans for materials produced by those operations;

(10) place money received by the office or a subordinate unit through sale of products or services as authorized under this chapter into a fund managed by the office and used to support additional training, production, and sales activities;

(11) conduct studies and investigations, give demonstrations and make reports, and provide training and instruction related to the work of the office;

(12) establish and maintain research fellowships and traineeships, including necessary stipends and allowances for those receiving training and instruction;

(13) institute and supervise programs to encourage the conservation of sight and hearing and assist in overcoming and preventing disabling conditions;

(14) provide diagnostic, placement, vocational rehabilitation, training, adjustment, and independent living services; and

(15) do all other things necessary to carry out assignments made by law or the board in assisting and rehabilitating persons with disabilities.

Amended by Chapter 303, 2011 General Session

53A-24-106. Public funding of vocational rehabilitation and independent living rehabilitation services.

(1) Public funding of vocational rehabilitation and independent living rehabilitation services may only be provided to eligible individuals who are found to require financial assistance with respect to those services.

(2) The executive director may establish priorities for use in determining services to be provided to eligible individuals under this chapter if the demand for services exceeds available funds.

(3) Rights established under this chapter are not transferable or assignable.

Repealed and Re-enacted by Chapter 83, 1988 General Session

53A-24-106.5. Employment first emphasis on the provision of services.

(1) When providing services to a person with a disability under this chapter, the office shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law, give priority to providing services that assist the person in obtaining and retaining meaningful and gainful employment that enables the person to:

- (a) purchase goods and services;
- (b) establish self-sufficiency; and
- (c) exercise economic control of the person's life.

(2) The office shall develop a written plan to implement the policy described in Subsection (1) that includes:

- (a) assessing the strengths and needs of a person with a disability;
- (b) customizing strength-based approaches to obtaining employment;
- (c) setting expectations, providing appropriate services toward, and recognizing success in:

- (i) integrated employment in the workplace at competitive wages and benefits; and
- (ii) self-employment;
- (d) developing partnerships with potential employers;
- (e) providing appropriate employment training opportunities;
- (f) coordinating services with other government agencies and community resources included in the Workforce Investment System;

(g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (1); and

(h) arranging for alternative work experience leading to competitive, integrated employment, including work-based training, volunteer work, and internships.

(3) The office shall, on an annual basis:

- (a) set goals to implement the policy described in Subsection (1) and the plan described in Subsection (2);
- (b) determine whether the goals for the previous year have been met; and
- (c) modify the plan described in Subsection (2) as needed.

Enacted by Chapter 169, 2011 General Session

53A-24-107. Personally identifiable information -- Nondisclosure -- Penalty.

(1) Personally identifiable information obtained by the office, its employees, or agents concerning individuals applying for or receiving services under this chapter may not be disclosed without the prior written consent of the individual or the individual's legal representative, except as required for administration of programs or services under this chapter, or as otherwise authorized by law.

(2) Unauthorized disclosure of personally identifiable information obtained under this chapter, or use of such information for unauthorized purposes, is a misdemeanor.

Repealed and Re-enacted by Chapter 83, 1988 General Session

53A-24-108. Acceptance and use of gifts -- Not subject to appropriation.

(1) The executive director may, with the approval of the board, accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this chapter.

(2) Gifts made under conditions that the board finds to be consistent with this chapter may be accepted and used in accordance with the conditions of the gift.

(3) Gifts are not subject to appropriation by the Legislature.

Repealed and Re-enacted by Chapter 83, 1988 General Session

53A-24-109. Delegation of duties and responsibilities of the office.

The executive director may, in accordance with applicable law and regulations and with the consent of the executive officer of the board, delegate duties and responsibilities of the office to one or more of its divisions to enable the office to better serve individuals' disabilities and to increase the efficiency and effectiveness of operations.

Amended by Chapter 37, 1996 General Session

53A-24-110. Purpose for establishing the office.

(1) It is the intent of the Legislature that all activities of the office and its subordinate components be conducted in such a manner that persons with disabilities will be assisted, so far as reasonably possible, to take their rightful place in open society as independent and self-supporting individuals.

(2) Neither the office nor any of its parts may assist or support any activity that will result in unnecessary continuation of a dependent or isolated state or unnecessarily separate persons with disabilities from open society.

Amended by Chapter 37, 1996 General Session

53A-24-110.5. Assistive Technology Advisory Council -- Membership -- Duties.

(1) The State Board of Education, through the State Office of Rehabilitation, shall utilize the Rehabilitation Services Advisory Committee as an advisory council for the Center for Assistive Technology, an interagency service unit which assists Utahns with disabilities.

(2) The council shall advise and make recommendations to the executive director of the State Office of Rehabilitation on the programs and administration of the center that would:

- (a) be interagency in nature;
- (b) address the needs of all people with disabilities; and
- (c) be consumer responsive.

Amended by Chapter 403, 1998 General Session

53A-24-110.7. Appropriation for assistive technology devices and services.

(1) Subject to future budget constraints, there is appropriated, as an ongoing appropriation, from the Uniform School Fund for fiscal year 2001-02, \$75,000 to the State Board of Education to be distributed to the State Office of Rehabilitation to purchase assistive technology devices and services in accordance with rules made by the State Board of Education.

(2) The office shall use the appropriation to provide:

- (a) assistance to individuals with disabilities in acquiring, customizing, and learning to use and maintain assistive technology to facilitate their independence; and
- (b) support through Independent Living Centers and other similar programs to facilitate interagency cooperation in providing assistive technology devices and services.

Amended by Chapter 328, 2001 General Session

53A-24-114. Governor's Committee on Employment of People with Disabilities.

(1) There is created the Governor's Committee on Employment of People with Disabilities.

(2) (a) The State Board of Education shall appoint at least 12 members to the committee.

(b) The State Board of Education shall ensure that the committee includes members from the public and private sectors who represent:

- (i) business and industry;
- (ii) individuals with disabilities and their advocates;
- (iii) job training and placement;
- (iv) administrative subunits of the state, such as the Department of Human Resource Management, the Department of Workforce Services, Public Education, Higher Education, and the Department of Human Services;
- (v) labor;
- (vi) veterans;
- (vii) medical;
- (viii) health;
- (ix) insurance;
- (x) media; and
- (xi) the general public.

(c) (i) Except as provided in Subsection (2)(c)(ii), the State Board of Education shall appoint committee members to serve four-year terms.

(ii) In making the initial appointments to the committee, the State Board of Education shall appoint approximately 1/2 of the members to two-year terms and 1/2 of the members to four-year terms.

(d) Committee members shall serve until their successors are appointed and qualified.

(e) The State Board of Education shall fill any vacancy that occurs on the committee for any reason by appointing a person according to the procedures of this section for the unexpired term of the vacated member.

(f) The State Board of Education shall select a chair from the membership.

(g) Seven members of the committee are a quorum for the transaction of business.

(3) (a) The committee shall:

(i) promote employment opportunities for individuals with disabilities;

(ii) serve as the designated state liaison to the President's Committee on Employment of People with Disabilities;

(iii) provide training and technical assistance to employers in implementing the Americans with Disabilities Act;

(iv) develop and disseminate appropriate information through workshops, meetings, and other requests in response to needs to employers and others regarding employment of individuals with disabilities;

(v) establish contacts with various community representatives to identify and resolve barriers to full participation in employment and community life;

(vi) formally recognize exemplary contributions in the areas of employment, job placement, training, rehabilitation, support services, medicine, media or public relations, and personal achievements made by individuals with disabilities;

(vii) advise, encourage, and motivate individuals with disabilities who are preparing for or seeking employment to reach their full potential as qualified employees;

(viii) advocate for policies and practices that promote full and equal rights for individuals with disabilities;

(ix) advise the State Board of Education and the governor on issues that affect employment and other requests for information on disability issues;

(x) prepare an annual report on the progress, accomplishments, and future goals of the committee and present the report to the State Board of Education and the governor; and

(xi) establish and maintain a cooperative liaison between the governor's office, the executive director of the committee, and the executive director of the Utah State Office of Rehabilitation to fulfill the committee's purpose.

(b) The committee may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures, receive and accept federal funds, and may receive and accept state funds, private gifts, donations, and funds from any source to carry out its purposes.

(4) The director of the State Office of Rehabilitation shall appoint a person to staff the committee.

Amended by Chapter 382, 2008 General Session

53A-24-201. Definition.

As used in this part, "director" means the director of DRS.

Enacted by Chapter 83, 1988 General Session

53A-24-202. Creation.

There is hereby created within the Utah State Office of Rehabilitation a Division of Rehabilitation Services, which is under the policy direction of the board and under the direction and general supervision of the executive director.

Enacted by Chapter 83, 1988 General Session

53A-24-203. Appointment of division director -- Administration.

(1) The executive director shall appoint the director of DRS with the approval of the board.

(2) The director of DRS shall administer the division in accordance with the direction of the executive director, board policies, and applicable state and federal laws and regulations.

Enacted by Chapter 83, 1988 General Session

53A-24-204. Division responsibilities.

DRS may:

- (1) provide vocational rehabilitation services to eligible individuals;
- (2) provide independent living rehabilitation services to eligible individuals;
- (3) cooperate with other public and private agencies to provide services to individuals with disabilities; and
- (4) perform other duties assigned by the executive director or the board.

Amended by Chapter 37, 1996 General Session

53A-24-205. Appointment of advisory council.

(1) The board shall appoint an advisory council to advise the office, DRS, and, as appropriate, the board concerning the need of individuals with disabilities and the activities of DRS regarding vocational rehabilitation services.

(2) A majority of the membership of the advisory council shall consist of individuals with disabilities.

(3) Members may be reimbursed for authorized actual and necessary expenses incurred by them in the performance of their official duties.

Amended by Chapter 37, 1996 General Session

53A-24-301. Definitions.

As used in this part:

- (1) "Blind" means an individual, or class of individuals, whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to

such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

(2) "Visual impairment" means an impairment of visual functions which is sufficient that the impairment constitutes or, if not corrected, will constitute a material limitation to normal activities or functioning.

Amended by Chapter 37, 1996 General Session

53A-24-302. Creation.

There is hereby created within the Utah State Office of Rehabilitation a Division of Services for the Blind and Visually Impaired, which is under the policy direction of the board and under the direction and general supervision of the executive director.

Amended by Chapter 37, 1996 General Session

53A-24-303. Appointment of division director -- Administration.

(1) The executive director shall appoint the director of DSBVI with the approval of the board.

(2) The director of DSBVI shall administer the division in accordance with the direction of the executive director, board policies, and applicable state and federal laws and regulations.

Amended by Chapter 37, 1996 General Session

53A-24-304. Division responsibilities.

DSBVI may:

(1) provide:

(a) a business enterprise program;

(b) sheltered workshops, employment, and training; and

(c) vocational rehabilitation, training and adjustment, sight conservation, prevention of blindness, low vision lens, and recreational services for individuals who are blind or have visual impairments;

(2) assist public education officials in the discharge of their duties towards children who are blind or have visual impairments, and perform services related to vision screening under Section 53A-11-203;

(3) maintain a register of individuals who are blind or have visual impairments, including such facts as the board considers necessary for proper planning, administration, and operations, but protecting against unwarranted invasions of privacy;

(4) establish and operate community service centers, rehabilitation facilities, and workshops; and

(5) perform other duties assigned by the executive director or the board.

Amended by Chapter 37, 1996 General Session

53A-24-305. Appointment of advisory council.

(1) The board shall appoint an advisory council to advise and assist the office, DSBVI, and, as appropriate, the board in matters relating to the needs of individuals who

are blind or have visual impairments and the activities of DSBVI.

(2) At least one-third of the members of the council shall be individuals who are blind or have visual impairments.

(3) Members may be reimbursed for authorized actual and necessary expenses incurred by them in the performance of their official duties.

Amended by Chapter 37, 1996 General Session

53A-24-401. Definitions.

(1) "Deaf" means an individual with a diagnosed auditory deficit that renders the individual unable to comprehend spoken language through audition only, even with medical intervention or amplification, and results in functional limitations in one or more areas of daily living.

(2) "Hearing impairment" means a diagnosed auditory deficit ranging from mild to profound that may or may not respond to medical intervention or amplification, and that results in functional limitations in one or more areas of daily living.

Enacted by Chapter 83, 1988 General Session

53A-24-402. Creation.

There is hereby created within the Utah State Office of Rehabilitation a Division of Services to the Deaf and Hard of Hearing, which is under the policy direction of the board and under the direction and general supervision of the executive director.

Amended by Chapter 78, 1990 General Session

53A-24-403. Appointment of administrator for the division.

(1) The executive director shall appoint an administrator for DSDHH with the approval of the board.

(2) The administrator of DSDHH shall administer the division in accordance with the direction of the executive director, board policies, and applicable state and federal laws and regulations.

Amended by Chapter 78, 1990 General Session

53A-24-404. Division responsibilities.

DSDHH may:

- (1) provide training and adjustment services for adults with hearing impairments;
- (2) assist public education officials in the discharge of their duties towards children with hearing impairments;
- (3) maintain a register of qualified interpreters;
- (4) provide training in the use of telecommunication devices for the deaf, and install and maintain those devices;
- (5) operate community centers for individuals with hearing impairments; and
- (6) perform other duties assigned by the executive director or the board.

Amended by Chapter 78, 1990 General Session

53A-24-405. Appointment of advisory council.

(1) The board shall appoint an advisory council to advise and assist the office, DSDHH, and, as appropriate, the board in matters relating to the needs of individuals with hearing impairments and the activities of DSDHH.

(2) At least one-third of the members of the council shall be individuals with hearing impairments.

(3) Members may be reimbursed for authorized actual and necessary expenses incurred by them in the performance of their official duties.

Amended by Chapter 78, 1990 General Session

53A-24-501. Creation.

There is hereby created within the Utah State Office of Rehabilitation a Division of Disability Determination Services, which is under the policy direction of the board and under the direction and general supervision of the executive director.

Enacted by Chapter 83, 1988 General Session

53A-24-502. Appointment of administrator for the division.

(1) The executive director shall appoint an administrator for DDDS with the approval of the board.

(2) The administrator of DDDS shall administer the division in accordance with the direction of the executive director, board policies, and applicable state and federal laws and regulations.

Amended by Chapter 4, 1993 General Session

53A-24-503. Division responsibilities.

DDDS may perform disability determination services authorized under state or federal law or regulation.

Amended by Chapter 4, 1993 General Session

53A-25a-101. Title.

This chapter is known as the "Blind Persons' Literacy Rights and Education Act."

Enacted by Chapter 280, 1994 General Session

53A-25a-102. Definitions.

As used in this chapter:

(1) "Blind student" means an individual between ages three through 21 who is eligible for special education services and who:

(a) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance no

greater than 20 degrees;

(b) has a medically indicated expectation of visual deterioration; or

(c) has functional blindness.

(2) "Braille" means the system of reading and writing through touch, commonly known as English Braille.

(3) "Functional blindness" means a visual impairment that renders a student unable to read or write print at a level commensurate with the student's cognitive abilities.

(4) "Individualized education program" or "IEP" means a written statement developed for a student eligible for special education services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. Section 1414(d).

Amended by Chapter 189, 2014 General Session

53A-25a-103. Braille skills assessment -- Development of individualized education program.

(1) Any assessment required for a blind student shall include a Braille-related or Braille skills assessment, including a statement of the individual's present level of performance.

(2)(a) Prior to determining whether a blind student should use Braille as the primary reading mode, the student's IEP team must be provided with detailed information about the use and efficiency of Braille as a reading medium.

(b) The team shall acquire the information through pertinent literature or discussions with competent Braille users and educators, or both, in order to make an informed choice as to the student's primary reading mode.

(3) In developing an IEP for each blind student, there is a presumption that proficiency in Braille is essential for the student to achieve satisfactory educational progress.

(4) The use of and instruction in Braille are not required under this section if, in the course of developing the student's IEP, the team determines that the student's visual impairment does not significantly affect reading and writing performance commensurate with ability.

(5) Nothing in this section requires the exclusive use of Braille if other special education services are appropriate to meet the student's educational needs.

(6) The provision of other appropriate special education services does not preclude the use of Braille or Braille instruction.

Enacted by Chapter 280, 1994 General Session

53A-25a-104. Instruction in reading and writing of Braille.

(1) Instruction in the reading and writing of Braille shall be sufficient to enable each blind student to communicate effectively and efficiently with the same level of proficiency expected of the student's peers of comparable ability and grade level.

(2) The student's IEP shall specify:

(a) the results obtained from the skills assessment required under Section 53A-25a-103;

(b) the manner in which Braille is to be implemented as a reading mode for learning

in other academic activities;

(c) the date on which Braille instruction shall begin;

(d) the length of the period of instruction and the frequency and duration of each instructional session;

(e) the projected level of competency in the reading and writing of Braille to be achieved by the end of the IEP period and the objective assessment measures to be used; and

(f) if a decision has been made under Section 53A-25a-103 that Braille instruction or use is not required for the student:

(i) a statement that the decision was reached after fully complying with Subsection 53A-25a-103(2); and

(ii) a statement of the reasons for choosing another reading mode.

Enacted by Chapter 280, 1994 General Session

53A-25a-105. Braille versions of textbooks.

(1) As a condition of the annual contract for instructional materials process and as a condition of textbook acceptance, the State Board of Education shall require publishers of textbooks recommended by the board to furnish, on request, their textbooks and related instructional materials in an electronic file set, in conformance with the National Instructional Materials Accessibility Standard, from which Braille versions of all or part of the textbook and related instructional materials can be produced.

(2) When Braille translation software for specialty code translation becomes available, publishers shall furnish, on request, electronic file sets, in conformance with the National Instructional Materials Accessibility Standard, for nonliterary subjects such as mathematics and science.

Amended by Chapter 294, 2009 General Session

53A-25a-106. Licensing of teachers.

(1) As part of the licensing process, teachers licensed in the education of blind and visually impaired students shall demonstrate their competence in reading and writing Braille.

(2) (a) The State Board of Education shall adopt procedures to assess the competencies referred to in Subsection (1), consistent with standards adopted by the National Library Service for the Blind and Physically Handicapped.

(b) The board shall require teachers of the blind to meet the standards referred to in Subsection (2)(a).

Amended by Chapter 224, 2000 General Session

53A-25b-101. Title.

This chapter is known as the "Utah Schools for the Deaf and the Blind."

Enacted by Chapter 294, 2009 General Session

53A-25b-102. Definitions.

As used in this chapter:

- (1) "Advisory council" means the Advisory Council for the Utah Schools for the Deaf and the Blind.
- (2) "Alternate format" includes braille, audio, or digital text, or large print.
- (3) "Associate superintendent" means:
 - (a) the associate superintendent of the Utah School for the Deaf; or
 - (b) the associate superintendent of the Utah School for the Blind.
- (4) "Blind" means:
 - (a) if the person is three years of age or older but younger than 22 years of age, having a visual impairment that, even with correction, adversely affects educational performance or substantially limits one or more major life activities; and
 - (b) if the person is younger than three years of age, having a visual impairment.
- (5) "Blindness" means an impairment in vision in which central visual acuity:
 - (a) does not exceed 20/200 in the better eye with correcting lenses; or
 - (b) is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.
- (6) "Board" means the State Board of Education.
- (7) "Cortical visual impairment" means a neurological visual disorder:
 - (a) that:
 - (i) affects the visual cortex or visual tracts of the brain;
 - (ii) is caused by damage to the visual pathways to the brain;
 - (iii) affects a person's visual discrimination, acuity, processing, and interpretation;
 - (iv) is often present in conjunction with other disabilities or eye conditions that cause visual impairment; and
 - (b) in which the eyes and optic nerves of the affected person appear normal and the person's pupil responses are normal.
- (8) "Deaf" means:
 - (a) if the person is three years of age or older but younger than 22 years of age, having a hearing impairment, whether permanent or fluctuating, that, even with amplification, adversely affects educational performance or substantially limits one or more major life activities; and
 - (b) if the person is younger than three years of age, having a hearing impairment.
- (9) "Deafblind" means:
 - (a) if the person is three years of age or older but younger than 22 years of age:
 - (i) deaf;
 - (ii) blind; and
 - (iii) having hearing and visual impairments that cause such severe communication and other developmental and educational needs that the person cannot be accommodated in special education programs solely for students who are deaf or blind; or
 - (b) if the person is younger than three years of age, having both hearing and vision impairments that are diagnosed as provided in Section 53A-25b-301.
- (10) "Deafness" means a hearing loss so severe that the person is impaired in processing linguistic information through hearing, with or without amplification.
- (11) "Educator" means a person who holds:

(a) (i) a license issued under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act; and

(ii) a position as:

- (A) a teacher;
- (B) a speech pathologist;
- (C) a librarian or media specialist;
- (D) a preschool teacher;
- (E) a guidance counselor;
- (F) a school psychologist;
- (G) an audiologist; or
- (H) an orientation and mobility specialist; or

(b) (i) a bachelor's degree or higher;

(ii) credentials from the governing body of the professional's area of practice; and

(iii) a position as:

- (A) a Parent Infant Program consultant;
- (B) a deafblind consultant;
- (C) a school nurse;
- (D) a physical therapist;
- (E) an occupational therapist;
- (F) a social worker; or
- (G) a low vision specialist.

(12) "Functional blindness" means a disorder in which the physical structures of the eye may be functioning, but the person does not attend to, examine, utilize, or accurately process visual information.

(13) "Functional hearing loss" means a central nervous system impairment that results in abnormal auditory perception, including an auditory processing disorder or auditory neuropathy/dys-synchrony, in which parts of the auditory system may be functioning, but the person does not attend to, respond to, localize, utilize, or accurately process auditory information.

(14) "Hard of hearing" means having a hearing loss, excluding deafness.

(15) "Hearing impairment" includes hard of hearing, deafness, or functional hearing loss.

(16) "Individualized education program" or "IEP" means:

(a) a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; or

(b) an individualized family service plan developed:

(i) for a child with a disability who is younger than three years of age; and

(ii) in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(17) "LEA" means a local education agency that has administrative control and direction for public education.

(18) "LEA of record" means the school district of residence of a student as determined under Section 53A-2-201.

(19) "Low vision" means an impairment in vision in which:

(a) visual acuity is at 20/70 or worse; or

(b) the visual field is reduced to less than 20 degrees.

(20) "Parent Infant Program" means a program at the Utah Schools for the Deaf and the Blind that provides services:

(a) through an interagency agreement with the Department of Health to children younger than three years of age who are deaf, blind, or deafblind; and

(b) to children younger than three years of age who are deafblind through Deafblind Services of the Utah Schools for the Deaf and the Blind.

(21) "Section 504" means Section 504 of the Rehabilitation Act of 1973.

(22) "Section 504 accommodation plan" means a plan developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.

(23) "Superintendent" means the superintendent of the Utah Schools for the Deaf and the Blind.

(24) "Visual impairment" includes partial sightedness, low vision, blindness, cortical visual impairment, functional blindness, and degenerative conditions that lead to blindness or severe loss of vision.

Enacted by Chapter 294, 2009 General Session

53A-25b-103. Utah Schools for the Deaf and the Blind created -- Designated LEA -- Services statewide.

(1) The Utah Schools for the Deaf and the Blind is created as a single public school agency that includes:

(a) the Utah School for the Deaf;

(b) the Utah School for the Blind;

(c) programs for students who are deafblind; and

(d) the Parent Infant Program.

(2) Under the general control and supervision of the board, consistent with the board's constitutional authority, the Utah Schools for the Deaf and the Blind:

(a) may provide services to students statewide:

(i) who are deaf, blind, or deafblind; or

(ii) who are neither deaf, blind, nor deafblind, if allowed under rules of the board established pursuant to Section 53A-25b-301; and

(b) shall serve as the designated LEA for a student and assume the responsibilities of providing services as prescribed through the student's IEP or Section 504 accommodation plan when the student's LEA of record, parent or legal guardian, and the Utah Schools for the Deaf and the Blind determine that the student be placed at the Utah Schools for the Deaf and the Blind.

(3) When the Utah Schools for the Deaf and the Blind becomes a student's designated LEA, the LEA of record and the Utah Schools for the Deaf and the Blind shall ensure that all rights and requirements regarding individual student assessment, eligibility, services, placement, and procedural safeguards provided through the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq. and Section 504 of the Rehabilitation Act of 1973, as amended, remain in force.

(4) Nothing in this section diminishes the responsibility of a student's LEA of record for the education of the student as provided in Title 53A, Chapter 15, Part 3, Education of

Children with Disabilities.

Enacted by Chapter 294, 2009 General Session

53A-25b-104. Corporate powers.

(1) The Utah Schools for the Deaf and the Blind is a public corporation with perpetual succession and a corporate seal.

(2) The Utah Schools for the Deaf and the Blind may:

- (a) sue and be sued;
- (b) contract and be contracted with;
- (c) take and hold by purchase, gift, devise, or bequest real and personal property required for its uses; and
- (d) convert property, if not suitable for its use, into other property or money.

(3) The property of the Utah Schools for the Deaf and the Blind is exempt from taxes and assessments.

Enacted by Chapter 294, 2009 General Session

53A-25b-105. Applicability of statutes to the Utah Schools for the Deaf and the Blind.

(1) The Utah Schools for the Deaf and the Blind is subject to Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided by this chapter.

(2) The following provisions of Title 53A, State System of Public Education, do not apply to the Utah Schools for the Deaf and the Blind:

- (a) provisions governing the budgets, funding, or finances of school districts or charter schools; and
- (b) provisions governing school construction.

(3) Except as provided in this chapter, the Utah Schools for the Deaf and the Blind is subject to state laws governing state agencies, including:

- (a) Title 51, Chapter 5, Funds Consolidation Act;
- (b) Title 51, Chapter 7, State Money Management Act;
- (c) Title 52, Chapter 4, Open and Public Meetings Act;
- (d) Title 63A, Utah Administrative Services Code;
- (e) Title 63G, Chapter 2, Government Records Access and Management Act;
- (f) Title 63G, Chapter 4, Administrative Procedures Act;
- (g) Title 63G, Chapter 6a, Utah Procurement Code;
- (h) Title 63J, Chapter 1, Budgetary Procedures Act;
- (i) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
- (j) Title 67, Chapter 19, Utah State Personnel Management Act.

Amended by Chapter 347, 2012 General Session

53A-25b-201. Authority of the State Board of Education -- Rulemaking -- Superintendent -- Advisory Council.

(1) The State Board of Education is the governing board of the Utah Schools for the

Deaf and the Blind.

(2) (a) The board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.

(b) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.

(3) The superintendent shall:

(a) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Deaf based on:

- (i) demonstrated competency as an expert educator of deaf persons; and
- (ii) knowledge of school management and the instruction of deaf persons;

(b) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Blind based on:

- (i) demonstrated competency as an expert educator of blind persons; and
- (ii) knowledge of school management and the instruction of blind persons, including an understanding of the unique needs and education of deafblind persons.

(4) (a) The board shall:

(i) establish an Advisory Council for the Utah Schools for the Deaf and the Blind and appoint no more than 11 members to the advisory council;

(ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operation of the advisory council; and

(iii) receive and consider the advice and recommendations of the advisory council but is not obligated to follow the recommendations of the advisory council.

(b) The advisory council described in Subsection (4)(a) shall include at least:

- (i) two members who are blind;
- (ii) two members who are deaf; and
- (iii) two members who are deafblind or parents of a deafblind child.

(5) The board shall approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind.

(6) (a) On or before the November interim meeting each year, the board shall report to the Education Interim Committee on the Utah Schools for the Deaf and the Blind.

(b) The report shall be presented verbally and in written form to the Education Interim Committee and shall include:

- (i) a financial report;
- (ii) a report on the activities of the superintendent and associate superintendents;
- (iii) a report on activities to involve parents and constituency and advocacy groups in the governance of the school; and
- (iv) a report on student achievement including:
 - (A) student academic achievement data, including longitudinal data for both current and previous students served by the Utah Schools for the Deaf and the Blind;
 - (B) graduation rates; and
 - (C) students exiting the Utah Schools for the Deaf and the Blind and their educational placement after exiting the Utah Schools for the Deaf and the Blind.

Amended by Chapter 278, 2013 General Session

53A-25b-301. Eligibility for services of the Utah Schools for the Deaf and the Blind.

(1) Except as provided in Subsections (3) and (4), a person is eligible to receive services of the Utah Schools for the Deaf and the Blind if the person is:

- (a) a resident of Utah;
- (b) younger than 22 years of age;
- (c) referred to the Utah Schools for the Deaf and the Blind by the person's school district of residence or a local early intervention program; and
- (d) identified as deaf, blind, or deafblind through:
 - (i) the special education eligibility determination process; or
 - (ii) the Section 504 eligibility determination process.

(2) (a) In diagnosing a person younger than age three who is deafblind, the following information may be used:

- (i) ophthalmological and audiological documentation;
- (ii) functional vision or hearing assessments and evaluations; or
- (iii) informed clinical opinion conducted by a person with expertise in deafness, blindness, or deafblindness.

(b) Informed clinical opinion shall be:

(i) included in the determination of eligibility when documentation is incomplete or not conclusive; and

(ii) based on pertinent records related to the person's current health status and medical history, an evaluation and observations of the person's level of sensory functioning, and the needs of the family.

(3) (a) A student who qualifies for special education shall have services and placement determinations made through the IEP process.

(b) A student who qualifies for accommodations under Section 504 shall have services and placement determinations made through the Section 504 team process.

(c) A parent or legal guardian of a child who is deaf, blind, or deafblind shall make the final decision regarding placement of the child in a Utah Schools for the Deaf and the Blind program or in a school district or charter school program subject to special education federal regulations regarding due process.

(4) (a) A nonresident may receive services of the Utah Schools for the Deaf and the Blind in accordance with rules of the board.

(b) The rules shall require the payment of tuition for services provided to a nonresident.

(5) (a) The board shall make rules in accordance with this chapter and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that determine the eligibility of students to be served by the Utah Schools for the Deaf and the Blind.

(b) The board may make rules to allow a resident of Utah who is neither deaf, blind, nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the student:

- (i) is younger than 22 years of age and has an IEP; or
- (ii) is younger than 19 years of age.

Enacted by Chapter 294, 2009 General Session

53A-25b-302. Entrance policies and procedures.

With input from the Utah Schools for the Deaf and the Blind, school districts, parents, and the advisory council, the board shall establish entrance policies and procedures that IEP teams and Section 504 teams are to consider in making placement recommendations at the Utah Schools for the Deaf and the Blind.

Enacted by Chapter 294, 2009 General Session

53A-25b-303. Educational programs.

(1) The Utah Schools for the Deaf and the Blind shall provide an educational program for a student:

- (a) based on assessments of the student's abilities; and
- (b) in accordance with the student's IEP or Section 504 accommodation plan.

(2) If a student's ability to access the core curriculum is impaired primarily due to a severe sensory loss, the Utah Schools for the Deaf and the Blind shall provide an educational program that will enable the student, with accommodations, to access the core curriculum.

(3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to students who are blind as required by Chapter 25a, Blind Persons' Literacy Rights and Education Act.

Enacted by Chapter 294, 2009 General Session

53A-25b-304. U-PASS testing.

The Utah Schools for the Deaf and the Blind shall annually administer, as applicable, the U-PASS tests specified in Section 53A-1-602, except a student may take an alternative test in accordance with the student's IEP.

Amended by Chapter 291, 2012 General Session

53A-25b-305. Collaboration with Department of Health.

The Utah Schools for the Deaf and the Blind shall collaborate with the Department of Health to provide services to children with disabilities who are younger than three years of age in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

Enacted by Chapter 294, 2009 General Session

53A-25b-306. Programs for deafblind individuals -- State deafblind education specialist.

(1) The board shall adopt policies and programs for providing appropriate educational services to individuals who are deafblind.

(2) Except as provided in Subsection (4), the board shall designate an employee of the Utah State Office of Education who holds a deafblind certification or equivalent training and expertise to:

- (a) act as a resource coordinator for the board on public education programs

designed for individuals who are deafblind;

(b) facilitate the design and implementation of professional development programs to assist school districts, charter schools, and the Utah Schools for the Deaf and the Blind in meeting the educational needs of those who are deafblind; and

(c) facilitate the design of and assist with the implementation of one-on-one intervention programs in school districts, charter schools, and at the Utah Schools for the Deaf and the Blind for those who are deafblind, serving as a resource for, or team member of, individual IEP teams.

(3) The board may authorize and approve the costs of an employee of the Utah State Office of Education to obtain a deafblind certification or equivalent training and expertise to qualify for the position described in Subsection (2).

(4) The board may contract with a third party for the services required under Subsection (2).

Enacted by Chapter 294, 2009 General Session

53A-25b-307. Educational Enrichment Program for Hearing and Visually Impaired Students -- Funding for the program.

(1) There is established the Educational Enrichment Program for Hearing and Visually Impaired Students.

(2) The purpose of the program is to provide opportunities that will, in a family friendly environment, enhance the educational services required for deaf, blind, or deafblind students.

(3) The advisory council shall design and implement the program, subject to the approval by the board.

(4) The program shall be funded from the interest and dividends derived from the permanent funds created for the Utah Schools for the Deaf and the Blind pursuant to Section 12 of the Utah Enabling Act and distributed by the director of the School and Institutional Trust Lands Administration under Section 53C-3-103.

Enacted by Chapter 294, 2009 General Session

53A-25b-401. Educators exempt from Department of Human Resource Management rules -- Collective bargaining agreement.

(1) Educators employed by the Utah Schools for the Deaf and the Blind are exempt from mandatory compliance with rules of the Department of Human Resource Management.

(2) The board may enter into a collective bargaining agreement to establish compensation and other personnel policies with educators employed by the Utah Schools for the Deaf and the Blind to replace rules of the Department of Human Resource Management.

(3) A collective bargaining agreement made under Subsection (2) is subject to the same requirements that are imposed on local school boards by Section 53A-3-411.

Enacted by Chapter 294, 2009 General Session

53A-25b-402. Annual salary adjustments for educators.

(1) Subject to future budget constraints, the Legislature shall annually appropriate money to the board for the salary adjustments described in this section, including step and lane changes.

(2) The board shall include in its annual budget request for the Utah Schools for the Deaf and the Blind an amount of money sufficient to adjust educators' salaries as described in Subsection (3) and fund step and lane changes.

(3) (a) The board shall determine the salary adjustment specified in Subsection (2) by:

(i) calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state, with the average weighted by the number of teachers in each school district; and

(ii) increasing the weighted average salary adjustment by 10% in any year in which teachers of the Utah Schools for the Deaf and the Blind are not ranked in the top 10 in 20-year earnings when compared to earnings of teachers in the school districts of the state.

(b) In calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state under Subsection (3)(a), the board shall exclude educator salary adjustments provided pursuant to Section 53A-17a-153.

(4) From money appropriated to the board for salary adjustments, the board shall adjust the salary schedule applicable to educators at the school each year.

Enacted by Chapter 294, 2009 General Session

53A-25b-501. Instructional Materials Access Center -- Board to make rules.

(1) The Utah State Office of Education shall collaborate with the Utah Schools for the Deaf and the Blind, school districts, and charter schools in establishing the Utah State Instructional Materials Access Center to provide students with print disabilities access to instructional materials in alternate formats in a timely manner.

(2) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish the Utah State Instructional Materials Access Center;

(b) define how the Educational Resource Center at the Utah Schools for the Deaf and the Blind shall collaborate in the operation of the Utah State Instructional Materials Access Center;

(c) specify procedures for the operation of the Utah State Instructional Materials Access Center, including procedures to:

(i) identify students who qualify for instructional materials in alternate formats; and

(ii) distribute and store instructional materials in alternate formats;

(d) establish the contribution of school districts and charter schools towards the cost of instructional materials in alternate formats; and

(e) require textbook publishers, as a condition of contract, to provide electronic file sets in conformance with the National Instructional Materials Accessibility Standard.

Enacted by Chapter 294, 2009 General Session

53A-26a-101. Title.

This chapter is known as the "Interpreter Services for the Hearing Impaired Act."

Enacted by Chapter 306, 1994 General Session

53A-26a-102. Definitions.

As used in this chapter:

(1) "Advisory board" or "board" means the Interpreters Certification Board created in Section 53A-26a-201.

(2) "Certified interpreter" means a person who is certified as meeting the certification requirements of this chapter.

(3) "Hearing impaired" means a hearing loss which:

(a) necessitates the visual acquisition of language; or

(b) adversely affects the acquisition of language but which does not preclude the auditory acquisition of language.

(4) "Interpreter services" means services that facilitate effective communication between a hearing person and a person who is hearing impaired as defined by Subsection (3), through American Sign Language or a language system or code that is modeled after American Sign Language, in whole or in part, or is in any way derived from American Sign Language.

Amended by Chapter 385, 2013 General Session

53A-26a-201. Board.

(1) There is created to assist the State Board of Education the Interpreters Certification Board consisting of the following 11 members:

(a) a designee of the director of the Division of Services to the Deaf and Hard of Hearing (DSDHH) in the Utah State Office of Rehabilitation;

(b) a designee of the State Board of Regents;

(c) a designee of the State Board of Education;

(d) four professional interpreters, recommended by the director of DSDHH; and

(e) four persons who are hearing impaired, recommended by the director of DSDHH.

(2) (a) The State Board of Education shall make all appointments to the board.

(b) In making its appointments under Subsections (1)(d) and (e), the State Board of Education shall give consideration to recommendations by interpreters for the hearing impaired and members of the hearing impaired community.

(3) (a) Board members shall serve three-year terms, except that for the initial terms of board members, three shall serve one-year terms, four shall serve two-year terms, and four shall serve three-year terms.

(b) A person may not serve more than two three-year consecutive terms.

(c) If a vacancy occurs on the board for any other reason than the expiration of a term, the State Board of Education shall appoint a replacement for the remainder of the term pursuant to Subsections (1) and (2).

(4) The State Board of Education may remove any board member for cause, which shall include misconduct, incompetence, or neglect of duty.

- (5) The board shall elect annually a chair and vice chair from among its members.
- (6) The board shall meet as often as necessary to accomplish the purposes of this chapter, but not less than quarterly.
- (7) Board members shall receive compensation for actual and necessary expenses in connection with their service on the board, but shall not receive a per diem.

Enacted by Chapter 306, 1994 General Session

53A-26a-202. Powers and duties of the board.

(1) The board shall function as an advisory board to the State Board of Education and under the direction of the State Board of Education shall perform the following duties concerning the certification of interpreters:

- (a) recommend to the state board appropriate rules;
- (b) recommend to the state board policy and budgetary matters;
- (c) recommend to the state board a passing score for applicant examinations;
- (d) screen applicants for certification and recommend certification, renewal, reinstatement, and recertification actions to the state board in writing;
- (e) recommend standards of supervision for persons in training to become certified interpreters; and
- (f) act as presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders when so designated by the State Board of Education.

(2) The State Board of Education, with the collaboration and assistance of the advisory board, shall:

- (a) prescribe certification qualifications;
- (b) prescribe rules governing applications for certification;
- (c) provide for a fair and impartial method of examination of applicants;
- (d) define unprofessional conduct, by rule, to supplement the definition under this chapter; and
- (e) establish conditions for reinstatement and renewal of certification.

(3) (a) The advisory board shall designate one of its members on a permanent or rotating basis to:

- (i) assist the state board in reviewing complaints involving the unlawful or unprofessional conduct of a certified interpreter; and
 - (ii) advise the state board in its investigation of these complaints.
- (b) An advisory board member who has, under Subsection (3)(a), reviewed a complaint or advised in its investigation is disqualified from participating with the advisory board when it serves as a presiding officer of an administrative proceeding concerning the complaint.

Enacted by Chapter 306, 1994 General Session

53A-26a-301. Certification required -- Classes of certification.

(1) Except as specifically provided in Section 53A-26a-305, an individual is required to be certified as a certified interpreter if that individual provides interpreter services and a state or federal law requires the interpreter to be certified or qualified.

(2) The State Board of Education shall issue a certification to any person who qualifies under this chapter in classifications determined by the board based upon recommendations from the advisory board.

Amended by Chapter 385, 2013 General Session

53A-26a-302. Qualifications for certification.

Each applicant for certification under this chapter shall:

- (1) submit an application in a form prescribed by the State Board of Education;
- (2) pay a fee determined by the State Board of Education under Section 63J-1-504 to help offset the costs of implementing this chapter for the administration of examinations for certification and for the issuance of certificates;
- (3) be of good moral character; and
- (4) comply with any other qualifications for certification established by the State Board of Education pursuant to Subsection 53A-26a-202(2).

Amended by Chapter 183, 2009 General Session

53A-26a-303. Certification term -- Expiration -- Renewal.

(1) (a) The State Board of Education shall issue each certificate under this chapter in accordance with a three-year renewal cycle established by rule.

(b) The State Board of Education may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the certified interpreter must show satisfactory evidence of compliance with renewal conditions established by the State Board of Education pursuant to Subsection 53A-26a-202(2).

(3) Each certificate automatically expires on the expiration date shown on the certificate unless the certified interpreter renews it in accordance with the conditions prescribed by the State Board of Education for renewal.

Enacted by Chapter 306, 1994 General Session

53A-26a-304. Continuing education.

(1) (a) As a condition for renewal of certification, each certified interpreter shall, during each three-year certification cycle or other cycle defined by rule, complete a number of hours of qualified continuing professional education in accordance with standards defined by rule.

(b) The State Board of Education shall determine the number of hours based upon recommendations from the advisory board.

(2) If the renewal cycle is extended or shortened under Section 53A-26a-303, the continuing education hours determined for renewal under Subsection (1) shall be increased or decreased proportionately.

Enacted by Chapter 306, 1994 General Session

53A-26a-305. Exemptions from certification -- Temporary or restricted

certification.

(1) The following individuals may engage in the practice of a certified interpreter, subject to the stated circumstances and limitations, without being certified under this chapter:

(a) an individual serving in the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the person holds a valid certificate or license to provide interpreter services issued by any other state or jurisdiction recognized by the State Board of Education;

(b) a student engaged in providing interpreter services while in training in a recognized school approved by the State Board of Education to the extent the student's activities are supervised by qualified faculty, staff, or designee, and the services are a defined part of the training program;

(c) an individual engaged in an internship, residency, apprenticeship, or on-the-job training program approved by the State Board of Education while under the supervision of qualified persons;

(d) an individual residing in another state and certified or licensed to provide interpreter services in that state, who is called in for a consultation by an individual certified to provide interpreter services in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, or other body approved by the State Board of Education to conduct a lecture, clinic, or demonstration on interpreter services if the individual does not establish a place of business or regularly engage in the practice of providing interpreter services in this state;

(f) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the individual may only attend to the needs of the team or group, including all individuals who travel with the team or group, except as a spectator; or

(g) an individual who is providing interpreter services for a religious entity, to the extent that the religious entity is specifically exempted from liability under federal law.

(2) (a) An individual temporarily in this state who is exempted from certification under Subsection (1) shall comply with each requirement of the jurisdiction from which the individual derives authority to practice.

(b) Violation of any limitation imposed by this section is grounds for removal of exempt status, denial of certification, or another disciplinary proceeding.

(3) (a) Upon the declaration of a national, state, or local emergency, the State Board of Education, in collaboration with the advisory board, may suspend the requirements for permanent or temporary certification of persons who are certified or licensed in another state.

(b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for the duration of the emergency while engaged in providing interpreter services for which they are certified or licensed in the other state.

(4) The State Board of Education, after consulting with the advisory board, may adopt rules for the issuance of temporary or restricted certifications if their issuance is necessary to or justified by:

(a) a lack of necessary available interpretive services in any area or community of the state, if the lack of services might be reasonably considered to materially jeopardize compliance with state or federal law; or

(b) a need to first observe an applicant for certification in a monitored or supervised practice of providing interpretive services before a decision is made by the board either to grant or deny the applicant a regular certification.

Amended by Chapter 385, 2013 General Session

53A-26a-401. Grounds for denial of certification -- Disciplinary proceedings.

(1) The State Board of Education shall refuse to issue a certificate to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the certificate of a certified interpreter who does not meet the qualifications for certification under this chapter.

(2) The State Board of Education may refuse to issue a certificate to an applicant, refuse to renew a certificate, revoke, suspend, restrict, or place on probation the certificate of a certified interpreter, issue a public or private reprimand to a certified interpreter, and issue a cease and desist order in any of the following cases:

(a) the applicant or certified interpreter has engaged in unprofessional conduct as defined in this chapter or by rule under this chapter;

(b) the applicant or certified interpreter has engaged in unlawful conduct as defined in this chapter;

(c) the applicant or certified interpreter has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or

(d) the applicant or certified interpreter is unable to provide interpretive services with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a threat or potential threat to the public health, safety, or welfare.

(3) An individual whose certificate has been suspended, revoked, or restricted under Subsection (1) may apply for reinstatement at reasonable intervals and upon compliance with conditions imposed by the State Board of Education.

(4) The State Board of Education may issue cease and desist orders:

(a) to a certified interpreter or applicant who may be disciplined under Subsection (1);

(b) to any person who engages or represents himself to be engaged in the profession of a certified interpreter; and

(c) to any person who otherwise violates this chapter or any rules adopted under this chapter.

Enacted by Chapter 306, 1994 General Session

53A-26a-501. Unlawful conduct.

"Unlawful conduct" means conduct by any person:

(1) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in the profession of a certified interpreter if the person

is:

- (a) not certified to do so or exempted from certification under this chapter; or
- (b) restricted from doing so by a restricted, suspended, revoked, temporary, probationary, or inactive certification;
- (2) impersonating another certified interpreter or practicing as a certified interpreter under a false or assumed name, except as permitted by law;
- (3) knowingly employing any other person to practice or engage in or attempt to practice or engage in the profession of a certified interpreter, if the employee is not certified to do so under this chapter;
- (4) knowingly permitting the person's authority to engage in the profession of a certified interpreter to be used by another, except as permitted by law; or
- (5) applying for or obtaining certification or otherwise dealing with the State Board of Education through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission.

Enacted by Chapter 306, 1994 General Session

53A-26a-502. Unprofessional conduct.

"Unprofessional conduct" means conduct by a certified interpreter that is defined as unprofessional conduct under this chapter or under any rules adopted under this chapter and includes:

- (1) violating, or aiding or abetting any other person to violate any provision of this chapter or rule or order regulating certified interpreters;
- (2) violating or aiding or abetting any other person to violate any generally accepted professional or ethical standard applicable to the profession of a certified interpreter; or
- (3) physically, mentally, or sexually abusing or exploiting any person through conduct connected with a certified interpreter's practice under this chapter.

Enacted by Chapter 306, 1994 General Session

53A-26a-503. Penalty for unlawful conduct.

Any person who violates Section 53A-26a-501 is guilty of a class B misdemeanor.

Enacted by Chapter 306, 1994 General Session

53A-28-101. Title.

This chapter shall be known as the "Utah School Bond Guaranty Act."

Enacted by Chapter 62, 1996 General Session

53A-28-102. Definitions.

- (1) "Board" means the board of education of a school district existing now or later under the laws of the state.
- (2) "Bond" means any general obligation bond or refunding bond issued after the effective date of this chapter.
- (3) "Default avoidance program" means the school bond guaranty program

established by this chapter.

(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a board payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(5) "Paying agent" means the corporate paying agent selected by the board for a bond issue who is:

(a) duly qualified; and

(b) acceptable to the state treasurer.

(6) "Permanent school fund" means the state school fund described in the Utah Constitution, Article X, Section 5(1).

(7) "Refunding bond" means any general obligation bond issued by a board for the purpose of refunding its outstanding general obligation bonds.

(8) "School district" means any school district existing now or later under the laws of the state.

Enacted by Chapter 62, 1996 General Session

53A-28-201. Contract with bondholders -- Full faith and credit of state is pledged -- Limitation as to certain refunded bonds.

(1) (a) The state of Utah pledges to and agrees with the holders of any bonds that the state will not alter, impair, or limit the rights vested by the default avoidance program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.

(b) Notwithstanding Subsection (1)(a), nothing contained in this chapter precludes an alteration, impairment, or limitation if adequate provision is made by law for the protection of the holders of the bonds.

(c) Each board may refer to this pledge and undertaking by the state in its bonds.

(2) (a) The full faith and credit and unlimited taxing power of the state is pledged to guarantee full and timely payment of the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, bonds as such payments shall become due (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default of otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration).

(b) This guaranty does not extend to the payment of any redemption premium.

(c) Reference to this chapter by its title on the face of any bond conclusively establishes the guaranty provided to that bond under provisions of this chapter.

(3) (a) Any bond guaranteed under this chapter that is refunded and considered paid for the purposes of and within the meaning of Subsection 11-27-3(6), no longer has the benefit of the guaranty provided by this chapter from and after the date on which that bond was considered to be paid.

(b) Any refunding bond issued by a board that is itself secured by government obligations until the proceeds are applied to pay refunded bonds, as provided in Title 11,

Chapter 27, Utah Refunding Bond Act, is not guaranteed under the provisions of this chapter, until the refunding bonds cease to be secured by government obligations as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

(4) Only validly issued bonds issued after the effective date of this chapter are guaranteed under this chapter.

Enacted by Chapter 62, 1996 General Session

53A-28-202. Program eligibility -- Option to forego guaranty.

(1) (a) Any board may request that the state treasurer issue a certificate evidencing eligibility for the state's guaranty under this chapter.

(b) After reviewing the request, if the state treasurer determines that the board is eligible, the state treasurer shall promptly issue the certificate and provide it to the requesting board.

(c) (i) The board receiving the certificate and all other persons may rely on the certificate as evidencing eligibility for the guaranty for one year from and after the date of the certificate, without making further inquiry of the state treasurer during that year.

(ii) The certificate of eligibility is valid for one year even if the state treasurer later determines that the school board is ineligible.

(2) Any board that chooses to forego the benefits of the guaranty provided by this chapter for a particular issue of bonds may do so by not referring to this chapter on the face of its bonds.

(3) Any board that has bonds, the principal of or interest on which has been paid, in whole or in part, by the state under this chapter may not issue any additional bonds guaranteed by this act until:

(a) all payment obligations of the board to the state under the default avoidance program are satisfied; and

(b) the state treasurer and the state superintendent of public instruction each certify in writing, to be kept on file by the state treasurer and the state superintendent, that the board is fiscally solvent.

(4) Bonds not guaranteed by this chapter are not included in the definition of "bonds" in Section 53A-28-201 as used generally in this chapter and are not subject to the requirements of and do not receive the benefits of this chapter.

Enacted by Chapter 62, 1996 General Session

53A-28-203. Fiscal solvency of school districts -- Duties of state treasurer and attorney general.

(1) The state superintendent of public instruction shall:

(a) monitor the financial affairs and condition of each board in the state to evaluate each school board's financial solvency; and

(b) report immediately to the governor and state treasurer any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.

(2) (a) The state treasurer shall determine whether or not the financial affairs and condition of a board are such that it would be imprudent for the state to guarantee the

bonds of that board.

(b) If the state treasurer determines that the state should not guarantee the bonds of that board, the state treasurer shall:

- (i) prepare a determination of ineligibility; and
- (ii) keep it on file in the office of the state treasurer.

(c) The state treasurer may remove a board from the status of ineligibility when a subsequent report or other information made available to the state treasurer evidences that it is no longer imprudent for the state to guarantee the bonds of that board.

(3) Nothing in this section affects the state's guaranty of bonds of a board issued:

- (a) before determination of ineligibility;
- (b) after the eligibility of the board is restored; or
- (c) under a certificate of eligibility issued under Section 53A-28-202.

Amended by Chapter 221, 2003 General Session

53A-28-301. Business administrator duties -- Paying agent to provide notice -- State treasurer to execute transfer to paying agents -- Effect of transfer.

(1) (a) The business administrator of each board with outstanding, unpaid bonds shall transfer money sufficient for the scheduled debt service payment to its paying agent at least 15 days before any principal or interest payment date for the bonds.

(b) The paying agent may, if instructed to do so by the business administrator, invest the money at the risk and for the benefit of the board until the payment date.

(c) A business administrator who is unable to transfer the scheduled debt service payment to the paying agent 15 days before the payment date shall immediately notify the paying agent and the state treasurer by:

- (i) telephone;
- (ii) a writing sent by facsimile transmission; and
- (iii) a writing sent by first-class United States mail.

(2) If sufficient funds are not transferred to the paying agent as required by Subsection (1), the paying agent shall notify the state treasurer of that failure in writing at least 10 days before the scheduled debt service payment date by:

- (a) telephone;
- (b) a writing sent by facsimile transmission; and
- (c) a writing sent by first-class United States mail.

(3) (a) If sufficient money to pay the scheduled debt service payment has not been transferred to the paying agent, the state treasurer shall, on or before the scheduled payment date, transfer sufficient money to the paying agent to make the scheduled debt service payment.

(b) The payment by the treasurer:

(i) discharges the obligation of the issuing board to its bondholders for the payment; and

(ii) transfers the rights represented by the general obligation of the board from the bondholders to the state.

(c) The board shall pay the transferred obligation to the state as provided in this chapter.

Amended by Chapter 342, 2011 General Session

53A-28-302. State financial assistance intercept mechanism -- State treasurer duties -- Interest and penalty provisions.

(1) (a) If one or more payments on bonds are made by the state treasurer as provided in Section 53A-28-301, the state treasurer shall:

(i) immediately intercept any payments from the Uniform School Fund or from any other source of operating money provided by the state to the board that issued the bonds that would otherwise be paid to the board by the state; and

(ii) apply the intercepted payments to reimburse the state for payments made pursuant to the state's guaranty until all obligations of the board to the state arising from those payments, including interest and penalties, are paid in full.

(b) The state has no obligation to the board or to any person or entity to replace any money intercepted under authority of Subsection (1)(a).

(2) The board that issued bonds for which the state has made all or part of a debt service payment shall:

(a) reimburse all money drawn by the state treasurer on its behalf;

(b) pay interest to the state on all money paid by the state from the date the money was drawn to the date they are repaid at a rate not less than the average prime rate for national money center banks plus 1%; and

(c) pay all penalties required by this chapter.

(3) (a) The state treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the board on the state, market interest and penalty rates, and the cost of funds, if any, that were required to be borrowed by the state to make payment on the bonds.

(b) The state treasurer may, after considering the circumstances giving rise to the failure of the board to make payment on its bonds in a timely manner, impose on the board a penalty of not more than 5% of the amount paid by the state pursuant to its guaranty for each instance in which a payment by the state is made.

(4) (a) (i) If the state treasurer determines that amounts obtained under this section will not reimburse the state in full within one year from the state's payment of a board's scheduled debt service payment, the state treasurer shall pursue any legal action, including mandamus, against the board to compel it to:

(A) levy and provide property tax revenues to pay debt service on its bonds when due as required by Title 11, Chapter 14, Local Government Bonding Act; and

(B) meet its repayment obligations to the state.

(ii) In pursuing its rights under this Subsection (4)(a), the state shall have the same substantive and procedural rights under Title 11, Chapter 14, Local Government Bonding Act, as would a holder of the bonds of a board.

(b) The attorney general shall assist the state treasurer in these duties.

(c) The board shall pay the attorney's fees, expenses, and costs of the state treasurer and the attorney general.

(5) (a) Except as provided in Subsection (5)(c), any board whose operating funds were intercepted under this section may replace those funds from other board money or from ad valorem property taxes, subject to the limitations provided in this Subsection (5).

(b) A board may use ad valorem property taxes or other money to replace

intercepted funds only if the ad valorem property taxes or other money was derived from:

(i) taxes originally levied to make the payment but which were not timely received by the board;

(ii) taxes from a special levy made to make the missed payment or to replace the intercepted money;

(iii) money transferred from the capital outlay fund of the board or the undistributed reserve, if any, of the board; or

(iv) any other source of money on hand and legally available.

(c) Notwithstanding the provisions of Subsections (5)(a) and (b), a board may not replace operating funds intercepted by the state with money collected and held to make payments on bonds if that replacement would divert money from the payment of future debt service on the bonds and increase the risk that the state's guaranty would be called upon a second time.

Amended by Chapter 342, 2011 General Session

53A-28-401. Backup liquidity arrangements -- Issuance of notes.

(1) (a) If, at the time the state is required to make a debt service payment under its guaranty on behalf of a board, sufficient money of the state is not on hand and available for that purpose, the state treasurer may:

(i) seek a loan from the Permanent School Fund sufficient to make the required payment; or

(ii) issue state debt as provided in Subsection (2).

(b) Nothing in this Subsection (1) requires the Permanent School Fund to lend money to the state treasurer.

(2) (a) The state treasurer may issue state debt in the form of general obligation notes to meet its obligations under this chapter.

(b) The amount of notes issued may not exceed the amount necessary to make payment on all bonds with respect to which the notes are issued plus all costs of issuance, sale, and delivery of the notes, rounded up to the nearest natural multiple of \$5,000.

(c) Each series of notes issued may not mature later than 18 months from the date the notes are issued.

(d) Notes issued may be refunded using the procedures set forth in this chapter for the issuance of notes, in an amount not more than the amount necessary to pay principal of and accrued but unpaid interest on any refunded notes plus all costs of issuance, sale, and delivery of the refunding notes, rounded up to the nearest natural multiple of \$5,000.

(e) Each series of refunding notes may not mature later than 18 months from the date the refunding notes are issued.

(3) (a) Before issuing or selling any general obligation note to other than a state fund or account, the state treasurer shall:

(i) prepare a written plan of financing; and

(ii) file it with the governor.

(b) The plan of financing shall provide for:

(i) the terms and conditions under which the notes will be issued, sold, and delivered;

(ii) the taxes or revenues to be anticipated;

(iii) the maximum amount of notes that may be outstanding at any one time under the plan of financing;

(iv) the sources of payment of the notes;

(v) the rate or rates of interest, if any, on the notes or a method, formula, or index under which the interest rate or rates on the notes may be determined during the time the notes are outstanding; and

(vi) all other details relating to the issuance, sale, and delivery of the notes.

(c) In identifying the taxes or revenues to be anticipated and the sources of payment of the notes in the financing plan, the state treasurer may include:

(i) the taxes authorized by Section 53A-28-402;

(ii) the intercepted revenues authorized by Section 53A-28-302;

(iii) the proceeds of refunding notes; or

(iv) any combination of Subsections (3)(c)(i), (ii), and (iii).

(d) The state treasurer may include in the plan of financing the terms and conditions of arrangements entered into by the state treasurer on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure the notes, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the state treasurer.

(e) When issuing the notes, the state treasurer shall issue an order setting forth the interest, form, manner of execution, payment, manner of sale, prices at, above, or below face value, and all details of issuance of the notes.

(f) The order and the details set forth in the order shall conform with any applicable plan of financing and with this chapter.

(g) (i) Each note shall recite that it is a valid obligation of the state and that the full faith, credit, and resources of the state are pledged for the payment of the principal of and interest on the note from the taxes or revenues identified in accordance with its terms and the constitution and laws of Utah.

(ii) These general obligation notes do not constitute debt of the state for the purposes of the 1.5% debt limitation of the Utah Constitution, Article XIV, Section 1.

(h) Immediately upon the completion of any sale of notes, the state treasurer shall:

(i) make a verified return of the sale to the state auditor, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms, and conditions of the sale; and

(ii) credit the proceeds of sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the General Fund to be applied to the purpose for which the notes were issued.

Amended by Chapter 342, 2011 General Session

53A-28-402. Unlimited ad valorem tax as pledge of full faith and credit -- State Tax Commission duties -- Property tax abated.

(1) (a) In each year after the issuance of general obligation notes under this chapter and until all outstanding notes are retired, there is levied a direct annual tax on all real and personal property within the state subject to state taxation, sufficient to pay all principal of and interest on the general obligation notes as they become due.

(b) If money expected to be intercepted under Section 53A-28-302 is expected to be insufficient to reimburse the state for its payments of school districts' scheduled debt service payments or if it is necessary for the state treasurer to borrow as provided in Section 53A-28-401 and amounts to be intercepted under Section 53A-28-302 are expected to be insufficient to timely pay the general obligation notes issued or other borrowing undertaken under that section, the state treasurer shall certify to and give notice to the state tax commission of the amount of the deficiency.

(c) After receipt of that certified notice from the state treasurer, the state tax commission shall:

(i) immediately fix the tax rate necessary and levy direct ad valorem property tax on all real and personal property in the state subject to state taxation sufficient to provide money in the amount of the deficiency stated in the notice; and

(ii) require that the tax be collected and remitted as soon as may be in the ordinary course of ad valorem tax levy and collection.

(2) To the extent that other legally available revenues and funds of the state are sufficient to meet the certified deficiency, the property tax for this purpose is abated.

Amended by Chapter 342, 2011 General Session

53A-29-101. Definitions.

As used in this chapter:

(1) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through a school, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(2) "Intern" means a student enrolled in a school-sponsored work experience and career exploration program under Section 53A-29-102 involving both classroom instruction and work experience with a cooperating employer, for which the student receives no compensation.

(3) "Internship" means the work experience segment of an intern's school-sponsored work experience and career exploration program, performed under the direct supervision of a cooperating employer.

(4) "Private school" means a school serving any of grades 7 through 12 which is not part of the public education system.

(5) "Public school" means:

(a) a public school district;

(b) an applied technology center or applied technology service region;

(c) the Schools for the Deaf and the Blind; or

(d) other components of the public education system authorized by the State Board of Education to offer internships.

Enacted by Chapter 73, 1996 General Session

53A-29-102. Public or private school internships.

A public or private school may offer internships in connection with work experience and career exploration programs operated in accordance with the rules of the State Board of Education.

Enacted by Chapter 73, 1996 General Session

53A-29-103. Interns -- Workers' compensation medical benefits.

(1) An intern participating in an internship under Section 53A-29-102 is considered to be a volunteer government worker of the sponsoring public school, or an employee of the sponsoring private school, solely for purposes of receiving workers' compensation medical benefits.

(2) Receipt of medical benefits under Subsection (1) shall be the exclusive remedy against the school and the cooperating employer for all injuries and occupational diseases as provided under Title 34A, Chapters 2, Workers' Compensation Act and 3, Utah Occupational Disease Act.

Amended by Chapter 250, 2008 General Session

53A-29-104. Internship programs -- Criminal background checks.

Officers and employees of a cooperating employer who will be given significant unsupervised access to a student in connection with the student's activities as an intern shall be considered to be volunteer school workers solely for purposes of criminal background checks under Section 53A-3-410.

Enacted by Chapter 73, 1996 General Session

53A-29-105. Recognition of participation in internship program.

A cooperating employer may be given appropriate recognition by a school, including the posting of the employer's name and a short description of the employer's business in an appropriate location on school property, or publication of that information in official publications of the school or school district.

Enacted by Chapter 73, 1996 General Session

53A-30-101. Title.

This chapter is known as "Internal Audits."

Enacted by Chapter 433, 2014 General Session

53A-30-102. Definitions.

As used in this part:

(1) "Audit committee" means a standing committee:

(a) appointed by the local school board or charter school governing board with the following number of members as applicable to the local school board or charter school governing board:

(i) for a board of a local education agency that consists of seven or more members, three members of that board; or

(ii) for a board of a local education agency that consists of six or fewer members, two members of that board; and

(b) composed of people who are not administrators or employees of the local education agency.

(2) "Audit director" means the person who directs the internal audit program.

(3) "Audit plan" means a prioritized list of audits to be performed by an internal audit program within a specified period of time.

(4) "Internal audit" means an independent appraisal activity established within a local education agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the local education agency.

(5) "Internal audit program" means an audit function that:

(a) is conducted by a local school board or charter school governing board independent of the local education agency offices or other operations;

(b) objectively evaluates the effectiveness of the local education agency governance, risk management, internal controls, and the efficiency of operations; and

(c) is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) The Government Auditing Standards, issued by the Comptroller General of the United States.

(6) "Local education agency" means a school district or charter school.

Enacted by Chapter 433, 2014 General Session

53A-30-103. Internal auditing program -- Audit committee -- Powers and duties.

(1) A local school board or charter school governing board shall establish an audit committee.

(2) (a) The audit committee shall establish an internal audit program that provides internal audit services for the programs administered by the local education agency.

(b) A local education agency that has fewer than 10,000 students is not subject to Subsection (2)(a).

(3) (a) A local school board or charter school governing board shall appoint the audit director, with the advisement of the audit committee, if the local school board or charter school governing board hires an audit director.

(b) If the local school board or charter school governing board has not appointed an audit director and the school board or governing board contracts directly for internal audit services, the local school board or charter school governing board shall approve a contract for internal audit services, with the advisement of the audit committee.

(4) The audit committee shall ensure that copies of all reports of audit findings issued by the internal auditors are available, upon request, to the audit director of the State Board of Education, the Office of the State Auditor, and the Office of Legislative Auditor General.

(5) The audit committee shall ensure that significant audit matters that cannot be appropriately addressed by the local education agency internal auditors are referred to either the audit director of the State Board of Education, the Office of the State Auditor, or the Office of Legislative Auditor General.

(6) The audit director may contract with a consultant to assist with an audit.

(7) The audit director of the State Board of Education and the Office of the State

Auditor may contract to provide internal audit services.

Enacted by Chapter 433, 2014 General Session